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

HEARING OFFICER OF THE
SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

File No. 02-1548, 03-1213, 04-0910, 04-1282, 05-0375,
05-1984 and 05-1991

**WILLIAM D. HOWELL, III,
Bar No. 020188,**

**HEARING OFFICER'S
ADOPTION OF
ADMISSIONS AND AGREEMENT
FOR DISCIPLINE BY CONSENT,
FINDINGS, CONCLUSIONS AND
RECOMMENDATIONS**

Respondent.

(Assigned to Hearing Officer 9Q
Steven M. Friedman)

The State Bar of Arizona, and Respondent William D. Howell, III, having submitted a Tender of Admissions and a Joint Memorandum in Support of their Tender of Admissions and Agreement for Discipline by Consent; the Hearing Officer having reviewed and considered that submission adopts the Admissions and Agreement and makes Findings of Fact, Conclusions and Recommendations as follows.

FACTS

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 September 26, 2000.

2. Respondent was summarily suspended from the practice of law from January 21, 2005, until February 17, 2005.

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1 **COUNTS ONE, TWO, THREE AND FOUR**

2 **(02-1548, 02-2379, 03-0499, 03-1213)**

3 3. On or about August 8, 2002, a charge was received by the State Bar of
4 Arizona ("State Bar") from James Lawson ("Mr. Lawson"), alleging misconduct by
5 Respondent.
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7 4. On or about December 6, 2002, a charge was received by the State Bar
8 from Steven E. Kellogg ("Mr. Kellogg"), alleging misconduct by Respondent.

9 5. On or about March 12, 2003, a charge was received by the State Bar from
10 John R. Barton ("Mr. Barton"), alleging misconduct by Respondent.
11

12 6. On or about March 12, 2003, a charge was received by the State Bar from
13 Richard Pilch ("Mr. Pilch"), alleging misconduct by Respondent.

14 7. Pursuant to the information received from Mr. Lawson, Mr. Kellogg, Mr.
15 Barton and Mr. Pilch, Bar counsel initiated investigations, as authorized by Supreme
16 Court Rule.
17

18 8. At the conclusion of the investigations, Bar counsel recommended that
19 Respondent be offered an opportunity to participate in the State Bar's Diversion
20 program.

21 9. Respondent entered the State Bar's Diversion program, by Orders of
22 Diversion entered in each file by the Probable Cause Panelist, filed December 19,
23 2003.
24

25 10. Respondent asserts that on or about February 13, 2004, he met with the
26 Director of the Member Assistance Programs ("MAP") and expressed his concerns
27 about entering into the diversion program. Respondent asserts that he was
28

1 concerned about the requirement to locate a practice monitor, but was informed by the
2 MAP Director that the State Bar of Arizona would assist him in locating one.
3 Respondent asserts that based on this representation, he agreed to participate in
4 diversion, and the Law Office Management Assistance Program ("LOMAP").
5

6 11. Pursuant to the Order of Diversion, Respondent was directed to contact
7 MAP within 20 days for the development of a Memorandum of Understanding
8 ("MOU").

9 12. The MOU was sent by LAP to Respondent for his signature on or about
10 February 19, 2004. Respondent signed the MOU and dated his signature April 13,
11 2004, and returned it to LAP as previously instructed.
12

13 13. Included in the terms of the MOU were conditions providing that
14 Respondent find a qualified Practice Monitor, approved by the Law Office
15 Management Assistance Program ("LOMAP"), file quarterly reports with LOMAP and
16 participate in Fee Arbitration.
17

18 14. Although a Practice Monitor was appointed for Respondent in September
19 1, 2004, shortly thereafter the Practice Monitor notified LOMAP that he was unable to
20 continue in that capacity.

21 15. Respondent was subsequently notified by LOMAP that he needed to obtain
22 a practice monitor.
23

24 16. Respondent failed to do so.

25 17. By letter from Bar counsel, dated November 19, 2004, Respondent was
26 advised that Bar counsel had been made aware of his failure to comply with the terms
27
28

1 of his MOU, in particular failing to provide the name of a practice monitor and failing to
2 file the required quarterly report and fee arbitration letter.

3 18. Respondent was advised that unless he came into compliance with the
4 terms of the MOU by December 1, 2004, further action might be taken by the State
5 Bar.
6

7 19. Respondent did not come into compliance with the MOU.

8 20. By letter dated March 11, 2005, Respondent was again notified that he
9 was to obtain a practice monitor and provide the name to LOMAP no later than March
10 31, 2005; however Respondent did not provide the name of a practice monitor.
11

12 21. Respondent was to submit a quarterly report to LOMAP on January 13,
13 2005, but did not submit the quarterly report until February 22, 2005.

14 22. Respondent failed to submit the quarterly report due in April 2005.

15 23. By letter from Bar counsel, dated July 6, 2005, Respondent was advised
16 that Bar counsel had been informed by LOMAP that Respondent was not in
17 compliance with his MOU in this matter, and the specifics of Respondent's non-
18 compliance were outlined.
19

20 24. Respondent was given a July 26, 2005, date by which he was expected to
21 come into full compliance in this matter.

22 25. Respondent again failed to comply with the terms of the MOU.

23 26. Respondent violated one or more of the Rules of Professional Conduct as
24 follows: Respondent violated one or more conditions of diversion.
25

26 27. Respondent's conduct as described in these counts violated Rule 53 (e),
27 Ariz. R. S. Ct.
28

1 hearing before a Superior Court Commissioner, participating in discovery, filing
2 pleadings and preparing a stipulation.

3 32. Respondent asserts that on December 27, 2005, he had submitted to the
4 State Bar, his affidavit documenting his attendance at, or completion of, the required
5 MCLE courses.
6

7 33. Respondent asserts that on February 16, 2005, having not received by mail
8 the notification of his summary suspension due to problems with timely receiving mail
9 after a change in his office address, he learned of the summary suspension and acted
10 immediately to pay the required fee and was reinstated the next day.
11

12 34. Respondent engaged in the unauthorized practice of law by practicing
13 during a period of suspension, in violation of Rule 42, specifically ER 5.5(a).
14

COUNT EIGHT (05-1984/State Bar of Arizona)

15 35. Pursuant to an Order of Informal Reprimand filed September 10, 2004, in
16 State Bar File Nos. 03-1404, 03-1444 and 04-0326, Respondent was placed on
17 probation.
18

19 36. Among the terms of probation imposed by the Order of Informal Reprimand,
20 Respondent was to participate in fee arbitration in any or all of the underlying matters.
21

22 37. In addition, the terms of probation provided that Respondent comply with
23 the terms of diversion and probation already in effect in other cases (State Bar File
24 Nos. 02-1548, 02-2009, 02-2379, 03-0499, 03-1213).
25

26 38. Pursuant to the Order, a probation contract was mailed to Respondent on
27 or about September 8, 2004, for his review and signature. Respondent was then to
28 mail the signed contract back to the State Bar.

1 39. Respondent failed to sign and return the contract.

2 40. By letter dated November 19, 2004, Bar counsel urged Respondent to
3 come into compliance in all of his pending diversion and probation matters, including
4 those referenced in Counts One through Four, *see above*, in this count, and in Count
5 Nine, *see below*.
6

7 41. A compliance date of December 1, 2004, was established and Respondent
8 was notified that continued failure to comply with the conditions of his probation and
9 diversion would result in further action.

10 42. Respondent failed to come into compliance with the terms of his diversion
11 MOU and/or probation contract already in existence.
12

13 43. Respondent failed to comply with the terms of Diversion in State Bar File
14 Nos. 02-1548, 02-2379, 03-0499 and 03-1213, as detailed in Counts One through
15 Four.
16

17 44. Respondent failed to comply with the terms of probation in State Bar File
18 No. 02-2009, as detailed in Count Nine, *below*.

19 45. By letter dated July 6, 2005, Bar counsel urged Respondent to come into
20 compliance with all current cases of diversion and probation; a July 13, 2005, date for
21 full compliance was established.

22 46. Respondent asserts that he was unable to come into compliance as he
23 was unable to locate a practice monitor.
24

25 47. Respondent did not comply with the conditions of probation and/or
26 diversion as alleged in Counts One through Four, and Count Nine, but did participate
27 in Fee Arbitration in State Bar File Nos. 03-1404 and 04-0326.
28

1 48. A Fee Arbitration Award was granted against Respondent in Arbitration File
2 No. 04-B613 (State Bar File No. 03-1404/Hamilton), in favor of Karen Paulette
3 Hamilton ("Ms. Hamilton").

4 49. Pursuant to the Fee Arbitration Award issued on September 9, 2005,
5 Respondent was ordered to pay \$8,143.73 to Ms. Hamilton within 30 days of the
6 mailing of the award to Respondent.
7

8 50. Although Respondent was notified of the award by the State Bar's Fee
9 Arbitration Coordinator by letter dated September 13, 2005, he did not pay the award
10 until April 2006.

11 51. By violating one or more conditions of probation Respondent's conduct as
12 described in this count violated Rule 53(e) Ariz. R. S. Ct.
13

14 **COUNT NINE (05-1991/State Bar of Arizona)**

15 52. Pursuant to an Order of Informal Reprimand in State Bar File No. 02-2009,
16 filed October 8, 2003, Respondent was placed on probation, was ordered to attend a
17 one-day Ethics Enhancement Program ("EEP"), to be arranged by contacting the
18 Program Coordinator at the State Bar, and was ordered to pay costs.
19

20 53. Although Respondent was contacted by the Program Coordinator by letter
21 regarding EEP classes scheduled on November 10, 2003, and May 17, 2004, and had
22 been enrolled for attendance, he failed to attend first the November 2003 class, and
23 subsequently the May 2004, class.
24

25 54. By letter dated September 7, 2004, Respondent was contacted by the
26 Lawyer Regulations Records Manager of the State Bar of Arizona ("Records
27 Manager") and reminded that despite a July 7, 2004, letter requesting payment of the
28

1 costs pursuant to the Order of Informal Reprimand, Respondent had failed to pay the
2 costs as required.

3 55. By letter dated September 8, 2004, the Records Manager provided
4 Respondent with 30-day notice that should he not pay the costs, the State Bar would
5 be requesting his summary suspension. Respondent paid the costs in this matter on
6 September 17, 2004.
7

8 56. Although by letter dated November 11, 2004, Respondent was invited to
9 attend the EEP class to be held on December 10, 2004, and was informed that the
10 December 10, 2004, class would likely be the last EEP class held in 2004, and by
11 letter dated November 19, 2004, Bar counsel urged Respondent to come into
12 compliance with this and all pending probation and diversion matters, Respondent
13 failed to attend the December 10, 2004, EEP class.
14

15 57. Although by letter from the Program Coordinator dated June 19, 2005,
16 Respondent was urged to attend the EEP class scheduled to be held on July 19,
17 2005, Respondent did not attend the July 19, 2005 EEP class.
18

19 58. Respondent asserts, and for purposes of this agreement the State Bar has
20 not challenged this assertion, that he was unaware of a time deadline for completion
21 of this requirement of probation and believed that the completion date was flexible.
22

23 59. Respondent violated a condition of probation, thereby violating Rule 53(e).
24

CONDITIONAL ADMISSIONS

25 Respondent has conditionally admitted all of the facts described above and
26 that his conduct violated ERs 5.5(a) Rule 42, Ariz. R. S. Ct., and Rules 53(e), Ariz. R.
27 S. Ct.
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and 03-1213, and will continue to timely provide them thereafter until his term of probation is concluded;

b. Should the provision regarding the use of a Practice Monitor be stricken due to Respondent's inability to secure one, pursuant to section 4 below, Respondent's probation will terminate upon completion of all other terms of probation, including completion of the Ethics Enhancement Program (EEP).

3. Respondent will promptly upon presentation sign the probation contract prepared in this matter and will return it to the State Bar, LOMAP, no later than 5 days after it is received. The probation contract will be conveyed to Respondent by certified mail, return receipt requested. The receipt date, as indicated on the certified mail notification card, will be the receipt date for purposes of Respondent's probation.

4. Respondent will make diligent efforts to secure the assistance of a Practice Monitor. The State Bar, through LOMAP, will assist Respondent in locating a Practice Monitor;

a. Should Respondent or the State Bar be unable to locate a Practice Monitor within three months of the signing of probation contract, that provision will be removed from the probation contract provided that Respondent demonstrates his diligent efforts to locate a Practice Monitor. Diligent efforts shall be evidenced by Respondent's providing documentation showing contact, by mail or by e-mail, with at least one suitable person each week for two months in an effort to

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locate a Practice Monitor. Before contacting a potential Practice Monitor, Respondent shall obtain the approval of LOMAP of the potential Practice Monitor as a suitable person.

5. Respondent shall complete the EEP class next offered after the order in this matter is issued, unless he demonstrates that he had a court calendar conflict that he could not, after diligent and reasonable efforts, resolve. In such instance, Respondent shall attend the next scheduled class. Respondent shall complete EEP within one year of the signing of the probation contract in this matter;

6. Respondent shall respond to all communication from the State Bar of Arizona within two working days;

7. Respondent shall pay the costs incurred by the State Bar in these disciplinary proceedings.

Respondent has conditionally admitted, in exchange for the form of discipline set forth above, that he has engaged in the conduct described above and the rule violations indicated. Respondent, by entering this agreement, waives his right to a formal disciplinary hearing to which he would otherwise be entitled pursuant to Rule 57(j), Ariz. R. S. Ct., and the right to testify or present witnesses on his behalf at a hearing. Respondent is not represented in this matter. Respondent has waived all motions, defenses, objections or requests that he has made or raised, or could assert, if the conditional admissions and stated form of discipline are approved, which they are. Respondent has read the agreement submitted and has received a copy of the agreement submitted. Respondent submitted the agreement with conditional

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1 admissions freely and voluntarily, and without coercion or intimidation, and is aware of
2 the Supreme Court rules with respect to discipline. Respondent is aware that he will
3 have to comply with Rules 64, 65 and 72, Ariz. R. S. Ct. if applicable.

4 This Tender of Admissions and Agreement for Discipline by Consent has been
5 submitted to Hearing Officer 9Q pursuant to Rule 56, Ariz. R. S. Ct. Respondent
6 understood that the Hearing Officer could have requested an evidentiary hearing in
7 this matter. The Hearing Officer chooses not to do so and herewith files this report
8 with the Disciplinary Commission recommending acceptance of the agreement
9 submitted by the parties. This Findings and Recommendations will only become final
10 upon judgment and order of the Supreme Court of Arizona. If the agreement is rejected,
11 the parties' conditional admissions are withdrawn.
12

13
14 Respondent has agreed to accept censure, and to be placed on probation to
15 commence upon the issuance of the final order in this matter. The Hearing Officer has
16 considered the proposed terms of probation and finds them to be reasonable and
17 appropriate under the circumstances in this situation. The proposed terms of probation,
18 which the Hearing Officer have considered and finds to be reasonable and appropriate
19 are as follows: Respondent shall engage and utilize the services of a Practice Monitor
20 approved by the Law Office Management Assistance Program (LOMAP). Respondent
21 shall diligently seek a practice monitor to be approved by LOMAP; Respondent's diligent
22 efforts will be evidenced by documentation provided by Respondent to the State Bar that
23 he has contacted at least one suitable person each week for two months in an effort to
24 secure a practice monitor, or a total of eight suitable persons within three months. The
25 State Bar shall make reasonable efforts to assist Respondent in seeking a Practice
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1 Monitor. Should Respondent be unable to locate a practice monitor within three months,
2 the conditions relating to the use of a practice monitor may be removed from the
3 probation contract. Further, Respondent agrees to provide quarterly reports due in File
4 Nos. 02-1548, 02-2379, 03-0499, 03-1213 within 30 days after the final order in this
5 matter; to attend and complete the State Bar's Ethics Enhancement Program (EEP) at
6 the first opportunity following the issuance of the final order in this matter, unless
7 Respondent can demonstrate that he has made reasonable efforts to attend, but was
8 prevented from doing so by a court calendar conflict that he could not resolve; and to
9 respond to all communications from the State Bar within two working days.
10 Respondent's probation will commence immediately upon the issuance of the order of
11 the Supreme Court accepting this Finding and shall last for six months, but will not
12 formally terminate until the receipt of a report from Respondent's Practice Monitor
13 indicating that Respondent is satisfactorily complying with the recommendations of
14 LOMAP made in File Nos. 02-1548, 02-2379, 03-0499, and 03-1213 and the
15 requirements of probation in the instant matter. Should the provision regarding the use
16 of a Practice Monitor be stricken due to Respondent's inability to secure one, despite his
17 diligent efforts, probation shall terminate upon the completion of all other terms and
18 conditions of probation (those not related to the use of a practice monitor), including
19 completion of EEP. Respondent shall pay the costs and expenses of the disciplinary
20 proceedings in this matter. The State Bar and Respondent and the Hearing Officer
21 agree that these are the appropriate sanctions in these circumstances.
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27 **I. ABA STANDARDS**
28

1 In determining the appropriate sanctions, the Hearing Officer, Respondent
2 and the State Bar considered both the American Bar Association's *Standards for*
3 *Imposing Lawyer Sanctions* ("Standards" or "Standard ____") and applicable case law

4 The Standards provide guidance with respect to an appropriate sanction in
5 this matter. The Supreme Court and Disciplinary Commission consider the Standards
6 a suitable guideline. *In re Peasley*, 208 Ariz. 27, ¶ 23, ¶ 33, 90 P.3d 764, 770, 772
7 (2004); *In re Rivkind*, 164 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

8 The Supreme Court and the Disciplinary Commission consistently use the
9 Standards to determine appropriate sanctions for attorney discipline. See *In re Clark*,
10 207 Ariz. 414, 87 P.3d 827 (2004). The Standards are designed to promote
11 consistency in sanctions by identifying relevant factors the court should consider and
12 then applying these factors to situations in which lawyers have engaged in various
13 types of misconduct. *Standard 1.3, Commentary*.

14 In determining an appropriate sanction, the Court and the Disciplinary
15 Commission consider the applicable standard and the existence of aggravating and
16 mitigating factors. *Peasley*, 208 Ariz. at ¶ 33, 90 P.3d at 772; ABA *Standard 3.0*.

17 "The Standards do not account for multiple charges of misconduct. The
18 ultimate sanction imposed should at least be consistent with the sanction for the most
19 serious instance of misconduct among a number of violations; it might well be and
20 generally should be greater than the sanction for the most serious conduct."
21 *Standards, p.6; In re Redeker*, 177 Ariz. 305, 868 P.2d 318 (1994).

1 The parties have conditionally agreed, and the Hearing Officer finds that
2 Respondent's conduct in violation of ERs 5.5(a) is the most serious. Therefore,
3 *Standard 7.3* is implicated.

4 *Standard 7.3* provides that

5
6 Reprimand (censure in Arizona) is generally appropriate when a lawyer
7 negligently engages in conduct that is a violation of a duty owed as a
8 professional, and causes injury or potential injury to a client, the public,
9 or the legal system.

10 Based on the conditional admissions, the presumptive sanction for the admitted
11 conduct under the *Standards* is censure.

12 Although the attorney for the opposing party in the *Aparicio* matter testified that
13 her client was distressed at the possible delay in negotiations due to Respondent's
14 suspension, she testified that a settlement conference was held after Respondent's
15 reinstatement. Further, although Respondent did file one or more pleadings during
16 the period of suspension, his actions caused no actual injury. Therefore, the parties
17 have conditionally agreed, and the Hearing Officer finds that there was only potential
18 injury caused by Respondent's misconduct.

19 **A. The aggravating and mitigating circumstances**

20 As set forth above, the presumptive sanction for this sort of misconduct is
21 suspension. In considering the length of the suspension to be imposed, it is
22 appropriate to consider the relevant aggravating and mitigating factors.

23 The following factors should be considered in aggravation:

24 *Standard 9.22(a)* – Prior disciplinary offenses. Respondent received an
25 Informal Reprimand in State Bar file number 02-2009, filed on October 8, 2003;
26 Respondent received an Informal Reprimand in State Bar file numbers 03-1404, 03-
27
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1 1444, 04-0326, filed on September 10, 2004. While Respondent's prior discipline has
2 been taken into consideration, it is also reflected in the admitted violation of Rule 53(e)
3 and is therefore not given great additional weight.

4 *Standard 9.22(d) – Multiple offenses.*

5 The following factors should be considered in mitigation:

6 *Standard 9.32(b) – Lack of dishonest or selfish motive.* Respondent has
7 asserted, and the Hearing Officer finds that none of his actions were done with a
8 selfish motive or for personal gain.

9 *Standard 9.32(d) – Timely good faith effort to made restitution or to rectify*
10 *consequences of misconduct.* Respondent has asserted, and the Hearing Officer
11 finds that he promptly took action to rectify his summary suspension upon learning of
12 it.

13
14
15 Respondent, while admitting the violation of conditions of probation and
16 diversion, has asserted that he has worked diligently to implement a number of the
17 recommendations of LOMAP during the period of his probation, including improving
18 his billing practices, implementing an office policy and procedure manual and
19 improving client communications. Although this is no longer incorporated in the
20 *Standards*, the State Bar and Respondent have agreed that the Hearing Officer may
21 consider Respondent's assertions regarding his progress. The Hearing Officer has
22 done so and finds that conduct a mitigating factor which has been considered.

23
24
25 The parties have conditionally agreed that after considering the aggravating
26 factors and mitigating factors, the aggravating factors are insufficient to elevate the
27 appropriate sanction beyond censure. The Hearing Officer agrees and so finds.

28

1 PROPORTIONALITY

2 In the past, the Supreme Court has consulted similar cases in an attempt to
3 assess the proportionality of the sanction recommended. See *In re Struthers*, 179
4 Ariz. 216, 226, 887 P.2d 789, 799 (1994). The Supreme Court has recognized that
5 the concept of proportionality review is "an imperfect process." *In re Owens*, 182 Ariz.
6 121, 127, 893 P.3d 1284, 1290 (1995). This is because no two cases "are ever alike."
7 *Id.*

8
9 To have an effective system of professional sanctions, there must be internal
10 consistency, and it is appropriate to examine sanctions imposed in cases that are
11 factually similar. *Peasley, supra*, 208 Ariz. at ¶ 33, 90 P.3d at 772. However, the
12 discipline in each case must be tailored to the individual case, as neither perfection
13 nor absolute uniformity can be achieved. *Id.* at 208 Ariz. at ¶ 61, 90 P.3d at 778
14 (citing *In re Alcorn*, 202 Ariz. 62, 76, 41 P.3d 600, 614 (2002); *In re Wines*, 135 Ariz.
15 203, 207, 660 P.2d 454, 458 (1983)).

16
17
18 Lawyers who have knowingly practiced during a period of suspension have
19 received censures for their misconduct. In *In re Rodgers*, SB-04-0136-D (2004), the
20 respondent was censured for knowingly practicing during a period of summary
21 suspension for failure to comply with mandatory continuing legal education (MCLE)
22 requirements. Similarly, in *In re Kistler*, SB-00-0098 (2000) the attorney was censured
23 and placed on probation after failing to withdraw from a court case after he was
24 suspended.

25
26 In *In re Gwilliam*, SB-03-0004-D (2003), the respondent attorney was censured
27 for continuing to practice during a summary suspension resulting from failure to
28

1 complete MCLE requirements. Significant in that matter, as in the instant matter, is
2 that the attorneys remedied the cause for their suspension. Equally, in each matter,
3 the respondent attorney did not learn of their suspension until after it became
4 effective.¹

5
6 The Supreme Court "has long held that 'the objective of disciplinary
7 proceedings is to protect the public, the profession and the administration of justice
8 and not to punish the offender.'" *In re Alcorn*, 202 Ariz. 62, 74, 41 P.3d 600, 612
9 (2002) (quoting *In re Kastensmith*, 101 Ariz. 291, 294, 419 P.2d 75, 78 (1966)). The
10 State Bar and Respondent have conditionally agreed that the sanction proposed here
11 is consistent with these principles. The Hearing Officer agrees and so finds.

12 CONCLUSION

13
14 The objective of lawyer discipline is not to punish the lawyer, but to protect the
15 public, the profession, and the administration of justice. *Peasley, supra*, 208 Ariz. at ¶
16 64; 90 P.3d at 778; *In re Scholl*, 200 Ariz. 222, 227, 25 P.3d 710, 715 (2001).
17 Recognizing that it is the prerogative of the Hearing Officer, the Disciplinary
18 Commission, and the Supreme Court to determine the appropriateness of sanctions,
19 the State Bar and Respondent have agreed, based on the *Standards* and relevant
20 case law, that censure with probation on the terms and conditions agreed and
21 outlined in this memorandum and in the Agreement, and the payment of costs,
22

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25
26 ¹ In the instant matter, the State Bar has conditionally, and the Hearing Officer
27 has accepted Respondent's assertion that he was unaware of the fact of his
28 suspension until after it had already taken effect, and then immediately acted to
remedy it.

1 constitute an appropriate sanction. The Hearing Officer agrees, and adopts that
2 agreement as his conclusion and recommendation.

3 DONE THIS 30th day of August, 2006,

4
5 
6 _____
7 **Steven M. Friedman**
8 **Hearing Officer 9 Q**

8 Original was filed with the Disciplinary
9 Clerk of the Supreme Court this 30th day of
10 August, 2006:

11 by:  _____

12 Copy of the foregoing was mailed/faxed this
13 30th day of August, 2006, to:

14 Roberta L. Tepper
15 Staff Bar Counsel
16 State Bar of Arizona
17 4201 North 24th Street, Suite 200
18 Phoenix, AZ 85016-6288

19 William D. Howell, III
20 The Howell Law Firm, LLC
21 1906 N. 16th Street, Suite 201
22 Phoenix, Arizona 85034
23 Respondent

24 Copy of the foregoing mailed
25 this 30 day of August, 2006, to:

26 Lawyer Regulation Records Manager
27 State Bar of Arizona
28 4201 N. 24th Street, Suite 200
Phoenix, Arizona 85016-6288

by:  _____

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