

FILED

DEC 14 2007

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

DISCIPLINARY
SUPREME COURT OF ARIZONA
BY *[Signature]*

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3 IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
4)
5 **RAFAEL F. GALLEGO,**)
Bar No. 013726)
6)
7 **RESPONDENT.**)

Nos. 05-0689, 05-1264

**DISCIPLINARY COMMISSION
REPORT**

8 This matter first came before the Disciplinary Commission of the Supreme Court of
9 Arizona on August 11, 2007, pursuant to Rule 58(e), Ariz.R.Sup.Ct., for consideration of the
10 Hearing Officer's Report filed June 15, 2007, recommending acceptance of the Tender of
11 Admissions and Agreement for Discipline by Consent (Tender) and Joint Memorandum in
12 Support of Agreement for Discipline by Consent (Joint Memorandum), providing for a one-
13 year suspension, two years of probation with the State Bar's Member Law Office
14 Management Assistance Program (LOMAP), and Member Assistance Program (MAP), fee
15 arbitration, and costs.
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17 By Order filed August 13, 2007, the Commission continued the matter and set it for
18 oral argument. The Commission further requested the parties brief the appropriateness and
19 enforceability of the terms of probation as set forth in paragraphs 3(d) and (e)¹ of Hearing
20 Officer's Report. The parties filed their briefs on September 7, 2007 asserting that the
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23 ¹ Paragraph 3(d) provided that should Respondent be determined to possess or use illegal drugs (such
24 as, but not necessarily limited to, by being observed or apprehended with or using illegal drugs, or
25 testing positive for illegal drug use), Respondent would consent to immediate interim suspension and
26 disbarment and not contest the State Bar's proceedings to effectuate his interim suspension and
disbarment. Paragraph 3(e) provided that if a positive test result for illegal drug use is obtained by
MAP, or a MAP report of the same, it would be dispositive and conclusive of Respondent's
possession and/or use of illegal drugs and he would not to contest such a result or report.

1 terms were appropriate and Respondent knowingly and intelligently waived his
2 constitutional rights on these provisions.

3 This matter again came before the Disciplinary Commission for consideration on
4 September 15, 2007. The Agreement for Discipline by Consent was rejected and the matter
5 remanded to the Hearing Officer for further proceedings. See Commission Report filed
6 October 1, 2007. Thereafter, on October 26, 2007, the parties filed a Revised Tender and
7 Revised Joint Memorandum and omitted paragraphs 3(d) and (e).

8 The matter again came before the Commission on November 17, 2007, for
9 consideration of the Amended Hearing Officer's Report filed November 13, 2007,
10 recommending acceptance of the revised consent documents.

11 Decision

12 Having found no findings of fact clearly erroneous, the seven members² of the
13 Disciplinary Commission considering this matter unanimously recommend accepting and
14 incorporating the Hearing Officer's findings of fact, conclusions of law, and
15 recommendation for a one-year suspension, two years of probation (LOMAP and MAP)
16 upon reinstatement, fee arbitration and costs of these disciplinary proceedings. The terms of
17 probation are as follows:
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19 Terms of Probation

20 1. The period of will begin upon Respondent's reinstatement to active status,
21 and shall terminate no sooner than two-years following the date on which Respondent
22 executes all necessary initial LOMAP and MAP contracts.

23 2. Respondent shall submit to LOMAP and MAP assessments and thereafter,
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26 ² Commissioner Katzenberg did not participate in these proceedings. Commission Belleau recused.

1 shall agree to and comply with any initial and subsequent contracts deemed appropriate by
2 LOMAP and MAP. At a minimum, the MAP contract will require that Respondent submit
3 to periodic drug testing during his probation and that any and all information provided to or
4 obtained by MAP that in any manner whatsoever pertains to Respondent, even if furnished
5 by Respondent, and even if otherwise deemed privileged or confidential, may and will be
6 disclosed to bar counsel and may be used by the State Bar in any subsequent proceeding
7 herein for any purpose.

8 3. Respondent agrees that all information release forms he has previously
9 signed by which his privileged or confidential information may be obtained by the State Bar
10 will remain in effect for the duration of his probation. If deemed necessary by the State
11 Bar, Respondent will sign and provide new such authorizations.

12 4. Respondent shall participate in and initiate fee arbitration with Robert
13 Sagasta, Sr.

14 5. Respondent shall pay all costs and expenses incurred in these disciplinary
15 proceedings.

16 6. In the event that Respondent fails to comply with the foregoing terms of
17 probation, and information thereof is received by the State Bar, State Bar counsel shall file
18 a Notice of Non-Compliance with the imposing entity, pursuant to Rule 60(a)(5),
19 Ariz.R.Sup.Ct. The imposing entity may refer the matter to a Hearing Officer to conduct a
20 hearing at the earliest practicable time, but in no event later than 30 days after receipt of
21 notice, to determine whether a term of probation has been breached, and, if so, to
22 recommend an appropriate action and response. If there is an allegation that Respondent
23 failed to comply with any of the foregoing terms, the burden of proof shall be on the State
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Bar of Arizona to prove noncompliance by clear and convincing evidence.

1 RESPECTFULLY SUBMITTED this 14th day of December 2007.
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5 J. Conrad Baran, Chair
6 Disciplinary Commission

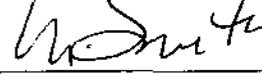
7 Original filed with the Disciplinary Clerk
8 this 14th day of December 2007.

9 Copy of the foregoing mailed
10 this 14th day of December 2007 to:

11 Bruce G. Macdonald
12 Hearing Officer 6M
13 *McNamara, Goldsmith, Jackson & Macdonald, P.C.*
14 1670 East River Road, Suite 200
15 Tucson, AZ 85718

16 Richard J. Gonzales
17 Respondent's Counsel
18 *The Gonzales Law Firm, P.C.*
19 Bank Of America Plaza
20 33 North Stone Avenue, Suite 1410
21 Tucson, AZ 85701-1404

22 David L. Sandweiss
23 Bar Counsel
24 State Bar of Arizona
25 4201 North 24th Street, Suite 200
26 Phoenix, AZ 85016-6288

by 

/mps