

FILED

JAN 22 2007

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

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

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

No. 05-0868

5 **JAMES T. GREGORY,**)
6 **Bar No. 021499**)

**DISCIPLINARY COMMISSION
REPORT**

7 **RESPONDENT.**)
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This matter came before the Disciplinary Commission of the Supreme Court of Arizona on November 18, 2006, pursuant to Rule 58, Ariz. R. Sup. Ct., for consideration of the Hearing Officer's Report filed August 25, 2006, recommending acceptance of the Tender of Admissions and the Agreement for Discipline by Consent (Tender) and the Joint Memorandum (Joint Memorandum) in Support of Agreement for Discipline by Consent providing for censure, one year of probation with the State Bar's Trust Account Program (TAP), the Trust Account Ethics Enhancement Program (TAEHP), and costs.

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, conclusions of law, and recommendation for censure, one year of probation (TAP and TAEHP) effective

¹ Commissioners Katzenberg and Osborne did not participate in these proceedings. Former Commissioner Steve Nelson, M.D., participated as an ad hoc member.

² Commissioner Flores was opposed because Respondent was technically on probation when the trusts account violations in this instant matter occurred. The State Bar asserts that the trust account violations are not considered probation violations because Respondent had not formally executed the probation contract in File No. 03-1427 at the time the insufficient funds notice was issued.

upon the date of execution of the Memorandum of Understanding, and costs of these disciplinary proceedings.³ The terms of probation are as follows:

Terms of Probation

1. Respondent shall meet with the State Bar Staff Examiner for Trust Accounts, Gloria Barr, within 30 days after the execution of the Memorandum of Understanding to schedule an assessment of his client trust account procedures. Following the assessment, Respondent shall enter into a TAP contract based upon the recommendations made by Ms. Barr. The TAP contract thereafter shall be incorporated by reference into the Memorandum of Understanding. Respondent shall comply with all recommendations or requirements made by Ms. Barr in relation to TAP.

2. Respondent shall complete TAEEP during the probation period.

3. Respondent shall pay all costs and expenses associated with these disciplinary proceedings and all costs associated with probation.

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

³ A copy of the Hearing Officer's Report is attached as Exhibit A.

