

FILED

JAN 23 2007

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA
BY *G. S. ...*

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

IN THE MATTER OF A MEMBER)	Nos. 02-1548, 02-2379, 03-0499
OF THE STATE BAR OF ARIZONA,)	03-1213, 04-0910, 04-1282
)	05-0375, 05-1984, 05-1991
WILLIAM D. HOWELL, III)	
Bar No. 020188)	DISCIPLINARY COMMISSION
)	REPORT
RESPONDENT.)	

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 May 12, 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, six months probation with the State Bar's Law Office Management Assistance Program (LOMAP), and the Ethics Enhancement Program (EEP), and costs.

Decision

The eight members¹ of the Disciplinary Commission unanimously recommend accepting and adopting the Hearing Officer's findings of fact, conclusions of law, and recommendation for censure, six months probation (LOMAP and EEP) effective upon the date of the final Judgment and Order, and costs of these disciplinary proceedings.² The terms of probation are as follows:

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

² A copy of the Hearing Officer's Report is attached as Exhibit A.

Terms of Probation

1 1. Respondent's probation shall commence immediately upon the issuance of
2 the final Judgment and Order and shall last for six months, but will not formally terminate
3 until the receipt of the report from Respondent's Practice Monitor indicating that
4 Respondent has satisfactorily complying with the recommendations of the LOMAP
5 director in Files No. 02-1548, 02-2379, 03-0499, and 03-1213 and the requirements of the
6 probation in this matter, including completion of EEP.
7

8 2. Respondent shall, within 30 days of the final Judgment and Order, provide
9 quarterly reports currently delinquent pursuant to the Memorandum of Understanding in
10 File Nos. 02-1548, 02-2379, 03-0499, and 03-1213, and will continue to timely provide
11 them thereafter until his term of probation is concluded. Should the provision regarding
12 the use of a practice monitor be stricken due to Respondent's inability to secure one,
13 pursuant to section 4 below, Respondent's probation shall terminate upon completion of
14 the Ethics enhancement Program (EEP).
15

16 3. Respondent shall promptly upon presentation sign the probation contract
17 prepared in this matter and shall return it to the State Bar, LOMAP, no later than five days
18 after it is received. The probation contract will be conveyed to Respondent by certified
19 mail, return receipt requested. The receipt date, as indicated on the certified mail
20 notification card, will be the receipt date for purposes of Respondent's probation.
21

22 4. Respondent shall make diligent efforts to secure the assistance of a practice
23 monitor. The State Bar, through LOMAP, will assist Respondent in locating a practice
24 monitor. Should Respondent or the State Bar be unable to locate a practice monitor within
25 three months of the signing of the probation contract, that provision will be removed from
26

1 the probation contract provided that Respondent demonstrates his diligent efforts to locate
2 a practice monitor. Diligent efforts shall be evidence by Respondent's providing
3 documentation showing contact, by mail or by e-mail, with at least one suitable person
4 each week for two months in an effort to locate a practice monitor. Before contacting a
5 potential practice monitor, Respondent shall obtain the approval of LOMAP of the
6 potential practice monitor as a suitable person.

7 5. Respondent shall complete the next EEP class offered after the final
8 Judgment and Order is issued, unless he demonstrated that he had a court calendar conflict
9 that he could not, after diligent and reasonable efforts, resolve. In such instance,
10 Respondent shall attend and complete EEP within one year of the signing of the probation
11 contract.

12 6. Respondent shall respond to all communications from the State Bar within
13 two working days.

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

16 8. In the event that Respondent fails to comply with any of the foregoing
17 conditions, and the State Bar receives information, bar counsel shall file with the Hearing
18 Officer a Notice of Non-Compliance, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct. The
19 Hearing Officer shall conduct a hearing within thirty days after receipt of said notice, to
20 determine whether the terms of probation have been violated and if an additional sanction
21 should be imposed. In the event there is an allegation that any of these terms have been
22 violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by
23
24
25
26

clear and convincing evidence.

RESPECTFULLY SUBMITTED this 23rd day of January, 2007.

Barbara A. Atwood

Barbara A. Atwood, Chair
Disciplinary Commission

Original filed with the Disciplinary Clerk
this 23rd day of January, 2007.

Copy of the foregoing mailed
this 23rd day of January, 2007, to:

Steven M. Friedman
Hearing Officer 9Q
111 W. Monroe, Suite 1400
Phoenix, AZ 85003-1787

William D. Howell, III
Respondent
The Howell D. Law Firm, L.L.C.
1906 N. 16th Street, Suite 201
Phoenix, AZ 85034

Roberta L. Tepper
Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, AZ 85016-6288

by: *Brenda De Dominguez*
/mps