

FILED

JUN 04 2007

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

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

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

Nos. 05-0819, 05-1048, 05-1112,
05-1188, 05-1421, 06-0378,
06-1915

5 **JAMES L. LEATHER,**)
6 **Bar No. 005002**)

**DISCIPLINARY COMMISSION
REPORT**

7 **RESPONDENT.**)
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This matter came before the Disciplinary Commission of the Supreme Court of Arizona on May 19, 2007, pursuant to Rule 58, Ariz.R.Sup.Ct., for consideration of the Hearing Officer's Report filed March 6, 2007, 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, two years of probation with the State Bar's Law Office Management Assistance program (LOMAP), retain independent ethics counsel to implement operations and practices, restitution 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, two years of probation (LOMAP), retain independent ethics counsel, restitution, and costs of these disciplinary proceedings.³ In

¹ Commissioner Horsley did not participate in these proceedings.

² Commissioner Osborne was opposed and would have recommended a suspension based on Respondent's similar prior disciplinary offenses.

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

light of Respondent's withdrawal from his previous law firm and the extensive conditions
of probation agreed to by Respondent, the Commission concludes that the public will be
protected and that sanction is appropriate under the unique circumstances of this case. The
amounts of restitution and terms of probation and are as follows:

Restitution

Joseph and Florence Brown	\$ 750.00
Robin and Gary Pecora	\$2,225.00
Robert Rogers	\$2,909.82
Randall Francis	<u>\$2,300.00</u>
TOTAL	<u>\$8,184.82</u>

Terms of Probation

1. Respondent shall participate in LOMAP for supervision of his practice pursuant to a memorandum of understanding with a LOMAP agreement.
2. Respondent shall retain Lynda C. Shely, Esq., or in the event that Ms. Shely is unwilling or unable to represent Respondent, another qualified lawyer approved by bar counsel pursuant to the scope of work exhibit, which has been approved by all parties.
3. Respondent shall implement all recommendations made by LOMAP and Ms. Shely or other approved independent ethics counsel.
4. For a period of one year Respondent shall submit monthly reports by Ms. Shely or other approved ethics counsel and/or LOMAP to bar counsel, followed by quarterly reports thereafter.
5. Respondent shall pay restitution as stated above.
6. Within 30-days of the date of the final Judgment and Order, Respondent shall remove any liens held by Respondent or Burton & Leather in File No. 06-1915 and shall offer fee arbitration to the client.

1 7. Respondent shall pay the State Bar's costs and expenses in this matter in
2 addition to costs incurred by the Disciplinary Clerk's office.

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

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12 RESPECTFULLY SUBMITTED this 4th day of June, 2007.

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15 J. Conrad Baran, Chair
16 Disciplinary Commission

17 Original filed with the Disciplinary Clerk
18 this 4th day of June, 2007.

19 Copy of the foregoing mailed
20 this 4th day of June, 2007, to:

21 Frederick K. Steiner, Jr.
22 Hearing Officer 8T
23 2915 East Sherran Lane
24 Phoenix, AZ 85016-7057
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8 by: Gwendolyn Dominguez
9 /mps