

FILED

APR 23 2007

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

BY *[Signature]*

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

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3 IN THE MATTER OF A SUSPENDED MEMBER) Nos. 05-0782, 05-1621, 05-1651,
4 OF THE STATE BAR OF ARIZONA,) 05-1848, 05-2152, 05-2153,
5) 05-2191, 06-0134, 06-0251,
6) 06-0320, 06-0357
7 **BARRY G. NELSON,**)
8 **Bar No. 006746**) **DISCIPLINARY COMMISSION**
9) **REPORT**
10)
11 **RESPONDENT.**)
12)
13)
14)
15)
16)

17 This matter came before the Disciplinary Commission of the Supreme Court of
18 Arizona on April 14, 2007, pursuant to Rule 58, Ariz. R. Sup. Ct., for consideration of the
19 Hearing Officer's Report filed January 31, 2007, recommending a six-month and one-day
20 suspension retroactive to March 14, 2006,¹ two years of probation upon reinstatement with
21 the State Bar's Law Office Management Assistance Program (LOMAP), Member
22 Assistance Program (MAP), restitution, fee arbitration,² and costs.

23
24 **Decision**

25 The eight members³ of the Disciplinary Commission unanimously recommend
26 accepting and adopting the Hearing Officer's findings of fact, conclusions of law, and
recommendation for a six-month and one-day suspension, two years of probation upon
reinstatement (LOMAP and MAP), restitution, participate in fee arbitration with Alejandro

¹ The date of Respondent's interim suspension.

² Respondent shall participate in fee arbitration if requested by client Alejandro Badilla.

³ Commissioners Atwood and Horsley did not participate in these proceedings. Former Commissioner Steven Nelson, M.D., and Hearing Officer Frederick Steiner participated as ad hoc members. Commissioner Katzenberg recused.

Badilla upon request, and costs of these disciplinary proceedings.⁴ The amount of
1 restitution and terms of probation are as follows:

2 **Restitution**

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Rosalina Verdugo	\$ 100.00
Mary Huerta	\$ 2,000.00
Greg Curtis	\$ 2,145.00
Amanda Simpson	\$ 700.00
John Trojanovich	\$ 1,290.00
Carlos Villicana	\$ 2,500.00
Brenda Nowak	\$ 1,300.00
Katherine Jacobs	\$ 1,500.00
TOTAL:	\$11,535.00

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9 **Terms of Probation**

10 1. Within 30-days of reinstatement, Respondent shall contact the director of
11 LOMAP to schedule an audit of his law office. The LOMAP director or designee shall
12 conduct the audit no later than 60-days thereafter. Following the audit, Respondent shall
13 enter into a probation contract that will be effective for a period of two years from the date
14 upon which all parties have signed the probation contract. Respondent shall comply with
15 all recommendations of the LOMAP director or designee.
16

17 2. Within 30-days of reinstatement Respondent shall contact the MAP
18 director and submit to an assessment. Respondent thereafter will enter into a MAP
19 contract based upon recommendations by the MAP director or designee. Any
20 recommendations by MAP shall be incorporated into the probation contract.
21

22 3. Respondent shall comply with the Rules of Professional Conduct and Trust
23 Account Guidelines.

24 4. Respondent shall pay all costs incurred in these disciplinary proceedings,
25 including the assessment by LOMAP and MAP.
26

⁴ A copy of the Hearing Officer's Report is attached as Exhibit A.

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

9 RESPECTFULLY SUBMITTED this 23rd day of April, 2007.

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11 _____
12 J. Conrad Baran, Chair
13 Disciplinary Commission

14 Original filed with the Disciplinary Clerk
15 this 23rd day of April, 2007.

16 Copy of the foregoing mailed
17 this 23rd day of April, 2007, to:

18 Denice R. Shepard
19 Hearing Officer 7Q
20 2424 East Speedway Blvd.
21 Tucson, AZ 85719

22 Barry G. Nelson
23 Respondent
24 12520 Broadmoor
25 Leawood, Kansas 66209-0001
26

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by: Brenda Dominguez
/mps

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