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DEC 14 2007

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

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

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3 IN THE MATTER OF A MEMBER) No. 05-0905, 05-1890, 06-0141,
4 OF THE STATE BAR OF ARIZONA,) 06-0187
5)
6 **RANDY J. TUNAC,**)
7 **Bar No. 022069**) **DISCIPLINARY COMMISSION**
8) **REPORT**
9)
10 **RESPONDENT.**)
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This matter came before the Disciplinary Commission of the Supreme Court of Arizona on November 17, 2007, pursuant to Rule 58, Ariz.R.Sup.Ct., for consideration of the Amended Hearing Officer's Report filed October 23, 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) and Member Assistance Program (MAP), restitution, and costs.

Decision

Having found no facts clearly erroneous, the eight members¹ of the Disciplinary Commission by a majority of six,² recommend accepting and incorporating the Hearing Officer's findings of fact, conclusions of law, and recommendation for censure, two years

¹ Commissioner Katzenberg did not participate in these proceedings.

² Commissioners Osborne and Todd were opposed given the extreme vulnerability of the victims, and both would reject the Agreement and remand the matter for a hearing.

of probation (LOMAP and MAP), restitution, and costs of these disciplinary proceedings.³

The amount of restitution and terms of probation are as follows:

Restitution

Mr. and Mrs. Mendoza	\$ 750.00
Ms. Socorro Barocio	<u>\$ 725.00</u>
TOTAL	\$1,475.00

Terms of Probation

1. Respondent shall be placed on probation effective the date of the final Judgment and Order and will continue for two years from the date Respondent signs the probation contract

2. Within 30-days from the date of the final Judgment and Order, Respondent shall contact the Director of Lawyer Assistance Programs to schedule and assessment of Respondent's office procedures as they relate to client communication and diligence issues including but not limited to calendaring and compliance with deadlines, court imposed or otherwise. Respondent shall cooperate with LOMAP staff and participate in the program for the duration of the probation period.

3. Within 30-days from the date of the final Judgment and Order, Respondent shall contact the MAP director to schedule an assessment and thereafter, shall comply with the MAP director's recommendations.

4. Respondent shall, during the period of probation, obtain and utilize the services of a Practice Monitor and/or Peer Monitor, as required by LOMAP and MAP after completion of all necessary assessments and after consultation with bar counsel.

³ A copy of the Hearing Officer's Report is attached as Exhibit A. The Commission requests that this matter not be cited for future proportionality analysis unless the matter is directly on point.

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 imposing
3 entity a Notice of Non-Compliance, pursuant to Rule 60(a)(5), Ariz.R.Sup.Ct. The
4 Hearing Officer shall conduct a hearing within 30-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 14th day of December, 2007.

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12 
13 J. Conrad Bacon, Chair
Disciplinary Commission

14 Original filed with the Disciplinary Clerk
15 this 14th day of December, 2007.

16 Copy of the foregoing mailed
17 this 14th day of December, 2007, to:

18 Christopher D. Thomas
19 Hearing Officer 8Z
20 Squire, Sanders & Dempsey, L.L.P.
40 North Central, Suite 2700
Phoenix, AZ 85004-4441

21 Nancy A. Greenlee
22 Respondent's Counsel
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