

1 sign the addendum to the probation Respondent advises that she resists disability inactive
2 status as she desires to practice law on a limited basis because of her mental disability

3 Respondent further asserts that because she has limited income and a mental
4 disability that the American Disability Act ("ADA") applies in this matter and reasonable
5 accommodations, such as a waiver of fees, has been requested Respondent states that
6 receives disability benefits from Social Security for bipolar disorder, currently she is not
7 taking any medication for her condition but since returning to active status, and in an effort
8 to control her illness, she has significantly reduced her practice. Respondent states that she
9 has paid restitution to the client in the underlying discipline matter ²

10 In rebuttal, the State Bar argues that Respondent has blocked access to medical
11 records and has refused to sign the addendum to the probation contract Since returning to
12 active membership status, Respondent has provided a one-line assessment from a nurse
13 practitioner, Judy Levins, regarding the status of her medical condition She also
14 represented herself and refused to testify at the hearing.

15 The State Bar asserts that Respondent was also ordered as part of her probation to
16 participate in the State Bar's Law Office Management Assistance Program (LOMAP) and
17 has also failed to provide the required LOMAP waiver The State Bar advises that because
18 of Respondent's limited income and disability, she received a reduced cost for her
19 continuing legal education requirements and a payments plan was offered for costs
20 associated with probation, but the State Bar does not have the authority to waive any costs
21 associated with the probation contract
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23 In closing the State Bar argues that based on Respondent's contempt for the
24 discipline process and probation program, the State Bar urges the Commission to accept
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1 the Hearing Officer's recommendation of a six-month and one-day suspension and two
2 years of probation

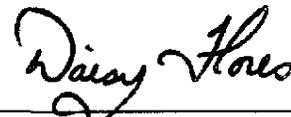
3 **Decision**

4 Having found no facts clearly erroneous, the eight members³ of the Disciplinary
5 Commission unanimously recommend accepting and incorporating the Hearing Officer's
6 findings of fact, conclusions of law,⁴ and recommendation for a six-month and one-day
7 suspension, two years of probation upon reinstatement with the State Bar's Law Office
8 Management Assistance Program ("LOMAP") and Member Assistance Program ("MAP"),
9 with specific terms and conditions to be determined at the time of reinstatement, and costs
10 of these disciplinary proceedings⁵

11 The Commission determined that in order to protect the public, Respondent should
12 be required to participate in formal reinstatement proceedings and provide comprehensive
13 medical records, including an independent medical examination, to prove her rehabilitation
14 and fitness to practice

15 IT IS FURTHER ORDERED Respondent's Motions are denied

16 RESPECTFULLY SUBMITTED this 14th day of July, 2008

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20 _____
21 Daisy Flores, Chair
22 Disciplinary Commission

23 ² See Commission transcript, p 4 12 and p 5 11

24 ³ One lawyer member seat remains vacant Commissioner Horsley did not participate in these
25 proceedings Sylvia Vega, a public member from Phoenix, participated as an ad hoc member

26 ⁴ The Hearing Officer did not specifically list the rule violations, however his findings and
conclusions support a violation of ER 8 1(b) (failure to cooperate), and Rule 53(e) (violation of
condition of probation)

⁵ A copy of the Hearing Officer's Report is attached as Exhibit A

1 Original filed with the Disciplinary Clerk
this 14th day of July, 2008

2 Copy of the foregoing mailed
3 this 15th day of July, 2008, to

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5 Hearing Officer 8L
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13 Phoenix, AZ 85020-5547

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18 Phoenix, AZ 85016-6288

19 by 

20 /mps

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FILED
 APR 18 2003
 HEARING OFFICER OF THE
 SUPREME COURT OF ARIZONA
M. M. ...

**BEFORE A HEARING OFFICER
 OF THE SUPREME COURT OF ARIZONA**

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

BARBARA T. BROWN
 Bar No. 006166,

RESPONDENT

File No. 002-0560, 02-1015

HEARING OFFICER'S REPORT

PROCEDURAL HISTORY

A Complaint was filed against the Respondent in September, 2002. Another
 Complaint was filed in File #02-1015 on 4/10/03. The two different Complaints were
 consolidated for hearing purposes. As a result of the hearings and subsequent appeal, the Arizona
 Supreme Court entered a Judgment and Order on 12/1/04. (See Attached Order). This Order
 specifically states that if the Respondent fails to comply with the Judgment and Order, the State
 Bar could file for a probation violation hearing for non-compliance with Judgment and for
 additional sanctions under Rule 60(A)(5) A.R.S. Ct.

On 1/25/08, the State Bar filed a Notice of Non-Compliance with Judgment and
 Order of the Supreme Court for violation of the terms under the Judgment. It was on this basis
 that the most recent hearing was held in this matter.

FINDINGS OF FACT

1 The Supreme Court issued a Judgment and Order on 12/1/04 for violations of the
 2 Supreme Court rules.
 3 The Respondent went inactive with her membership in the State Bar in 2005.
 Based upon the previous Judgment and Order of the Supreme Court, on 10/17/06

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1 a probation contract was signed by the Respondent and parties
2 4 As part of the Judgment and Order, the Respondent was required to pay all costs
3 and expenses associated with compliance with the terms of probation.
4 5 A probation contract was sent to the Respondent but since she chose to go from an
5 active member of the State Bar to an inactive member, nothing further was
6 pursued
7 6 On 7/18/07, the Respondent returned to an active status
8 7 An Addendum to the probation contract was sent to the Respondent in October,
9 2007 After she returned to active status, this Addendum was returned with edits,
10 but no signature On 11/19/07, the State Bar requested that the Respondent sign
11 the Addendum to the probation contract
12 8 Neither at that time, nor at any time after, has the Respondent signed or agreed to
13 sign the Addendum as written
14 9 The Respondent was also required under the original Judgment and Order to enter
15 into a LOMAP contract as well as pay any fees or costs This has not been done
16 10 As part of the original Order and Judgment, the Respondent was also to enter into
17 a contract and assessment based upon the recommendation of the MAP Director
18 11 The Respondent chose to receive the MAP benefits under Judith Levitt Reports
19 were submitted for all periods during her inactive status These reports were
20 received
21 12 After the Respondent became active in the State Bar once again, there was only
22 one confidential MAP report received which consisted of one word, "improving "
23 13 The Respondent refused to sign a Consent and Waiver form, which would allow
24 the State Bar access to the records of Ms Levitt
25 14 The Respondent was requested to sign a contract and pay the fees for the LOMAP
26 plan The Respondent did not sign the LOMAP contract and requested a waiver of
27 fees, but this has been denied
28 15 The State Bar had previously waived fees applicable to the Respondent for legal

1 seminars sponsored by the State Bar In this case, the State Bar refused to waive
2 or reduce any of the fees required under the LOMAP program

3 16 There has been no MAP assessment made since the one-word report of
4 November, 2007

5 17 The Respondent refused to testify at the hearing, but acted as her own legal
6 counsel

7 **CONCLUSIONS OF LAW**

8 1 It is the Hearing Officer's opinion that the Judgment and Order entered by the
9 Arizona Supreme Court on 12/1/04 is quite clear It specifically provides that the
10 Respondent shall contact the Director of State Bar Law Office Management
11 (LOMAP) within 30 days and shall enter into a LOMAP contract The Judgment
12 and Order further states that Respondent shall contact the State Bar's member
13 assistance program and enter into a MAP contract The Judgment and Order
14 specifically provides that the Respondent shall pay all costs and expenses
15 associated with compliance with the terms of this probation

16 2 It is this Hearing Officer's opinion that the failure to sign the Addendum is in fact
17 a violation of the probation requirements under the Judgment and Order It is also
18 this Hearing Officer's opinion that the failure to pay the fees required for the
19 programs involved is a violation of Paragraph 4 of the probation contract It is
20 further this Hearing Officer's opinion that the one word report from Judith Levitt
21 is not sufficient to meet the MAP requirements nor any other requirements

22 3 It seems quite obvious that the Respondent has failed to cooperate with the State
23 Bar neither with the specific requirements of the Judgment and Order nor with the
24 spirit of the Judgment and Order The Respondent's lack of respect for the hearing
25 conducted by this Hearing Officer is fortified by her unwillingness to testify her
26 demeanor at the hearing, and her cynical approach and attitude to this hearing

27 4 The State Bar has proved by clear and convincing evidence that the terms of the
28 Judgment and Order have been violated

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CONCLUSION

It is the Hearing Officer's opinion that the Respondent should be now given 3 months suspension from the practice of law in the state of Arizona. During this period of time she must comply with the reasonable requirements under the MAP program, and well as the LOMAP program, and pay all costs. The costs include the costs of the programs as well as all costs incurred by the State Bar. If these arrangements are not completed within 30 days of the date this decision becomes final, then it is the opinion of this Hearing Officer that the Respondent's suspension should be increased to 6 months and 1 day to give her plenty of time to understand the ramifications of her actions.

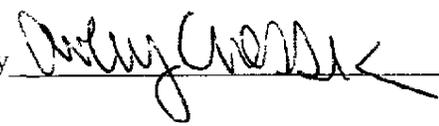
By 
Harlan J. Crossman, Esq
Hearing Officer

COPIES of the foregoing
mailed this 14th day of April, 2008

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