

FILED

JUL 16 2008

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

BY *[Signature]*

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

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IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
)
RICHARD B. JOHNSON,)
Bar No. 002118)
)
RESPONDENT)
_____)

Nos 06-1667, 07-1658

**AMENDED
DISCIPLINARY COMMISSION
REPORT**

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on April 19, 2008, pursuant to Rule 58, Ariz R Sup Ct , for consideration of the Hearing Officer's Report filed March 28, 2008, recommending acceptance of the Tender of Admissions and the Agreement for Discipline by Consent and the Joint Memorandum in Support of Agreement for Discipline by Consent providing for a *six-month and one-day suspension* and costs The Commission accepted the Agreement as written

Although the Hearing Officer did not request modification of the proposed Agreement for Discipline by Consent and did not reject the agreement outright as being overly harsh, pursuant to Rule 56(e),¹ he stated that anything more than a four-month suspension and probation seemed punitive and unwarranted See Hearing Officer's Report, p 16, ¶ 91-92

The Disciplinary Commission does not have the authority to alter an agreed-upon sanction It may only accept the Agreement as written or remand the matter for further proceedings Rule 58, Ariz R Sup Ct In accepting the Agreement, the Commission did not intend and did not have the power to alter the agreed upon sanction of a six-month and

one-day suspension and costs Unfortunately due to a scrivener's error, the original
1 Disciplinary Commission Report filed May 16, 2008, inadvertently stated that the
2 recommended sanction was a six-month suspension and costs

3 **Decision**

4 It is therefore Ordered amending and correcting the May 16, 2008 Disciplinary
5 Commission report to reflect the fact that the seven members² of the Disciplinary
6 Commission unanimously recommend accepting and incorporating the Hearing Officer's
7 findings of fact, conclusions of law, and recommendation for a *six-month and one-day*
8 *suspension* and costs of these disciplinary proceedings³

9
10 RESPECTFULLY SUBMITTED this 16th day of July, 2008

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13 Jeffrey Messing /ck
14 Jeffrey Messing, Vice-Chair
Disciplinary Commission

15 Original filed with the Disciplinary Clerk
16 this 16th day of July, 2008

17 Copy of the foregoing mailed
18 this 17th day of July, 2008, to

19 Honorable H Jeffrey Coker
20 Hearing Officer 6R
21 P O Box 23578
22 Flagstaff, AZ 86002

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25 ¹ The Hearing Officer may accept, reject or request modification of the Agreement

26 ² Commissioners Flores and Katzenberg did not participate in these proceedings Hearing Officer Mark Sifferman, participated as an ad hoc member One lawyer member seat remains vacant

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

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by *CSito*

/mps