

FILED
 MAR 25 2008
 RACHELLE M. HESNICK
 CLERK SUPREME COURT
 BY

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER)	Supreme Court
OF THE STATE BAR OF ARIZONA,)	No SB-08-0046-D
)	
)	Disciplinary Commission
)	No 06-0972
ROBERT M. HERSCH,)	
Bar No. 007929)	
)	
RESPONDENT.)	JUDGMENT AND ORDER

This matter having come on for hearing before the Disciplinary Commission of the Supreme Court of Arizona, it having duly rendered its decision and there having been no discretionary review,

IT IS ORDERED, ADJUDGED AND DECREED that **ROBERT M. HERSCH**, a member of the State Bar of Arizona, is hereby censured for conduct in violation of his duties and obligations as a lawyer, as disclosed in the Disciplinary Commission Report

IT IS FURTHER ORDERED that **ROBERT M. HERSCH** shall be placed on probation for a period of one (1) year Bar Counsel shall notify the Disciplinary Clerk of the date on which the probation begins The terms of probation are as follows

- 1 Within 30-days of the date of the final Judgment and Order, Respondent shall contact the LOMAP director and submit to a LOMAP audit of his office trust account policies and procedures Thereafter, the LOMAP director shall develop a probation contract and its terms shall be incorporated herein by reference
- 2 The probation period will be effective the date of the final Judgment and Order and will conclude one year from the date that all parties have signed the probation contract.
3. Respondent and his chosen Certified Public Accountant shall conduct a three-way reconciliation of the trust account general ledger, all individual client ledgers, and all bank statements to determine the extent of any other bookkeeping errors resulting in shortages of client funds held in trust Respondent and LOMAP shall develop and execute internal controls and procedures through which any other shortages are remedied immediately and future occurrences can be presented to be included as terms and conditions of probation
4. Respondent shall refrain from engaging in any conduct that would violate the Rules of Professional Conduct or other rules of the Supreme Court of Arizona

- 5 In the event that Respondent fails to comply with any of the foregoing conditions, and the State Bar receives information, bar counsel shall file with the imposing entity a Notice of Non-Compliance, pursuant to Rule 60(a)(5), Ariz R Sup Ct. The Hearing Officer shall conduct a hearing within 30-days after receipt of said notice, to determine whether the terms of probation have been violated and if an additional sanction should be imposed. In the event there is an allegation that any of these terms have been violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by clear and convincing evidence.

IT IS FURTHER ORDERED that Respondent shall pay all costs and expenses incurred by the State Bar in these disciplinary proceedings as provided in Rule 60(b), in the amount of \$2323.25. Payment of costs shall be made within 30-days from the date of this final Judgment and Order.

DATED this 25th day of March, 2008

Rachelle M Resnick

Rachelle M Resnick
Clerk of the Court

TO
Robert M Hersch, Respondent (Certified Mail, Return Receipt and Regular Mail)
Michael Drake, Respondent's Counsel
Matthew E McGregor, Bar Counsel, State Bar of Arizona
Bruce G. Macdonald, Hearing Officer 6M
Leticia V D'Amore, Disciplinary Clerk (Cert Copy)
Sandra Montoya, Lawyer Regulation Records Manager, State Bar of Arizona (Cert Copy)
Cathy Catterson, Clerk, United States Court of Appeals for the Ninth Circuit (Cert Copy)
Richard Weare, Clerk, United States District Court, District of Arizona (Cert. Copy)
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The foregoing instrument is a full, true and correct copy of the original on file in this office.

ATTEST

Rachelle M. Resnick, Clerk of the Supreme Court
State of Arizona

By *[Signature]* Deputy