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

IN THE MATTER OF A MEMBER	)	No. 08-1680
OF THE STATE BAR OF ARIZONA	)	
	)	
<b>STEVEN A. ADELMAN,</b>	)	
<b>Bar No. 018198</b>	)	<b>DISCIPLINARY COMMISSION</b>
	)	<b>REPORT</b>
RESPONDENT.	)	
_____	)	

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on April 14, 2009, pursuant to Rule 58, Ariz.R.Sup.Ct., for consideration of the Hearing Officer’s Report filed March 2, 2009, recommending acceptance of the Tender of Admissions and Agreement for Discipline by Consent (“Tender”) and Joint Memorandum in Support of Discipline by Consent (“Joint Memorandum”) providing for censure, one-year probation with the State Bar’s Law Office Management Assistance Program (“LOMAP”), and costs.

**Decision**

Having found no facts clearly erroneous, the eight <sup>1</sup> members of the Disciplinary Commission unanimously recommend accepting and incorporating the Hearing Officer’s findings of fact, conclusions of law, and recommendation for censure, one-year probation (LOMAP) and costs including any costs incurred by the Disciplinary Clerk and the Supreme Court of Arizona.<sup>2</sup>

<sup>1</sup> Commissioner Belleau did not participate in these proceedings.  
<sup>2</sup> The Hearing Officer’s Report is attached as Exhibit A.

**Terms of Probation**

1           1.       Respondent shall contact the director of the State Bar’s Law Office  
2 Management Assistance Program (LOMAP) at 602-340-7313 within 30-days of the date of  
3 the final Judgment and Order. Respondent shall submit to a LOMAP examination of his  
4 office procedures, including, but not limited to, compliance with E.R. 1.2, 1.3, 1.4, 3.2,  
5 3.4(a), 4.4(a) and 8.4(d). The Director of LOMAP, shall develop “Terms and Conditions of  
6 Probation,” and those terms shall be incorporated herein by reference. The probation  
7 period will begin to run at the time of the Judgment and Order and will conclude one year  
8 from the date that Respondent has signed the “Terms and Conditions of Probation.”  
9 Respondent shall be responsible for any costs associated with LOMAP.  
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11           2.       Respondent shall refrain from engaging in any conduct that would violate  
12 the Rules of Professional Conduct or other Rules of the Supreme Court of Arizona.  
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14           3.       In the event that the Respondent fails to comply with the foregoing terms of  
15 probation, and the State Bar of Arizona thereof receives information, Bar Counsel shall file  
16 a Notice of Non-Compliance with the imposing entity, pursuant to Rule 60(a)(5),  
17 Ariz.R.Sup.Ct. The imposing entity may refer the matter to a hearing officer to conduct a  
18 hearing at the earliest practical time, but in no event later than thirty (30) days after receipt  
19 of notice, to determine whether a term of probation has been breached, and if so, to  
20 recommend an appropriate action and response. If there is an allegation that the  
21 Respondent failed to comply with any of the foregoing terms, the burden of proof shall be  
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on the State Bar of Arizona to prove non-compliance by a preponderance of the evidence

1                    RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of April, 2009.

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3  
4                    Jeffrey Messing /cs  
                     Jeffrey Messing, Chair  
5                    Disciplinary Commission

6                    Original filed with the Disciplinary Clerk  
7                    this 23<sup>rd</sup> day of April, 2009.

8                    Copy of the foregoing mailed  
9                    this 23<sup>rd</sup> day of April, 2009, to:

10                    Harlan Crossman  
11                    Hearing Officer 8L  
12                    3030 North Central Avenue, Suite 801  
                     P.O. Box 33064  
                     Phoenix, AZ 85067-3064

13                    Steven A. Adelman  
14                    Respondent  
15                    *Renaud, Cook, Drury, Mesaros, PA*  
                     One North Central Avenue, Suite 900  
                     Phoenix, AZ 85004

16                    Harriet Bernick  
17                    Bar Counsel  
18                    State Bar of Arizona  
19                    4201 North 24th Street, Suite 200  
                     Phoenix, AZ 85016-6288

20                    by: Evelyn Lga

21                    /cs

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# **EXHIBIT**

**A**

BEFORE A HEARING OFFICER  
OF THE SUPREME COURT OF ARIZONA

**FILED**

MAR 02 2009

HEARING OFFICER OF THE  
SUPREME COURT OF ARIZONA  
BY:                     

IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, )  
 )  
STEVEN A. ADELMAN, )  
Bar No. 018198 )  
 )  
RESPONDENT. )

No. 08-1680

**HEARING OFFICER'S REPORT**

**PROCEDURAL HISTORY**

The Respondent was involved in litigation when certain irregularities occurred. The State Bar was notified and they thoroughly investigated the matter. A Tender of Admissions and Agreement For Discipline By Consent has been filed.

**FINDINGS OF FACT**

1. The Respondent was assigned to represent a Defendant trucking company.
2. The Respondent filed an unverified initial Disclosure Statement.
3. The Respondent was unable to find the individual who was the truck driver before he filed his unverified initial Disclosure Statement.
4. The Plaintiff in the case filed their initial discovery on 7/2/07, which consisted of non-uniform interrogatories as well as uniform interrogatories and Plaintiff's First Request for Production.
5. It was not until 11 months later that the Respondent spoke directly with the individual truck driver.
6. The Plaintiff filed a motion for summary judgment based upon the failure of the Defendants to respond to their motions.
7. Respondent reviewed the law firm computer to see when the responses had been filed. They had only been edited once on the computer and there was no evidence that it had been completed and forwarded to the Plaintiffs.
8. The Respondent told the Plaintiff that he thought that the responses had been

completed and he send another one back-dating it approximately 10 months. The Respondent also took depositions in this case without the Plaintiff's agreement, a court order, and knowing that the Plaintiff would not participate in these depositions.

9. Respondent also attempted to learn information about the Plaintiff's bathroom habits and lack of indoor plumbing facilities, which Judge Oberbillig found inappropriate.
10. Judge Oberbillig found certain violations of Rule 11 and he requested that the State Bar conduct an investigation.
11. Judge Oberbillig also found that the admissions were back-dated and mailing certificate was false. He found this conduct unprofessional at a minimum, inappropriate behavior and referred the matter to the State Bar.

#### **CONCLUSIONS OF LAW**

1. The filing of an unverified initial Disclosure Statement is in violation of E.R. 1.2, 1.4, and 8.4(d).
2. The service of improper discovery requests and motions are in violation of E.R. 1.3, 3.2, 3.4 and 4.4.

#### **STANDARDS**

The Standards which are applicable are 4.43 Lack of Diligence, and 7.3, Violations of Other Duties Owed As A Professional. Standard 4.43 deals with a lawyer being negligent and not acting with reasonable diligence in representing a client which causes injury or potential injury to a client. *Standard 7.3* deals with reprimanding (censure in Arizona) is appropriate when the lawyer negligently engages in conduct in violation of the duty owed as a professional and causes injury or potential injury to a client, the public, or legal system.

Aggravating Factors: 1) *Standard 9.22(d)*, multiple offenses; Respondent violated numerous ethical rules and duties in this matter; 2) *Standard 9.22(I)*; Substantial experience in the practice of law, as the Respondent was admitted to the State Bar in 1997.

Mitigating Factors: 1) *Standard 9.32(a)*, absence of a prior disciplinary records; 2) *Standard 9.32(e)*, full and free disclosure to disciplinary board or cooperative attitude towards the proceedings.

### PROPORTIONALITY

*In re Bradley*, SB-08-0026-D (2008), the attorney failed to adequately represent and communicate with his client in a personal injury case. The attorney was censured and received a one-year of term of probation along with meeting the LOMAP requirements. Based upon the violations of Rule 42, Ariz.R.Sup.Ct., and specifically, E.R.1.1, 1.2, 1.3, 1.4, 3.2, and 8.4(d).

### SANCTIONS

The Respondent, the State Bar as well as this Hearing Officer, believe that the sanctions for these violations should be as follows:

1. Respondent shall receive a Censure;
2. Respondent shall be placed on Probation under the following terms and conditions:
  - a. Respondent shall contact the director of the State Bar's Law Office Management Assistance Program (LOMAP) AT 602-340-7313 within thirty (30) days of the date of the final judgment and order. Respondent shall submit to a LOMAP examination of his office procedures, including, but not limited to, compliance with E.R. 1.2, 1.3, 1.4, 3.2, 3.4(a), 4.4(a), and 8.4(d). The Director of LOMAP, shall develop "Terms and Conditions of Probation," and those terms shall be incorporated herein by reference. The probation period will begin to run at the time of Judgment and Order and will conclude one year from the date that Respondent has signed the "Terms and Conditions of Probation." Respondent shall be responsible for any costs associated with LOMAP.
  - b. 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.

c. In the event that the Respondent fails to comply with the foregoing terms of probation, and the State Bar of Arizona thereof receives information, Bar Counsel shall file a Notice of Non-Compliance with the imposing entity, pursuant to Rule 60(a)(5), Ariz.R.Sup.Ct. The imposing entity may refer the matter to a hearing officer to conduct a hearing at the earliest practical time, but in no event later than thirty (30) days after receipt of notice, to determine whether a term a probation has been breached, and if so, to recommend an appropriate action and response. If there is an allegation that the Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by clear and convincing evidence.

3. Respondent shall pay all costs incurred by the State Bar of Arizona in bringing these disciplinary proceedings. In addition, the Respondent shall pay all costs incurred by the Disciplinary Commission, the Supreme Court of Arizona, and the Disciplinary Clerk's Office in this matter. The State Bar's Itemized Statement of Costs and Expenses is attached as Exhibit "A," and is incorporated herein by reference.

DATED this 2nd day of March, 2009.

Harlan Crossman / NM  
Harlan J. Crossman  
Hearing Officer 8L

Original filed with the Disciplinary Clerk  
this 2nd day of March, 2009.

Copy of the foregoing mailed  
this 3rd day of March, 2009, to:

Steven A. Adelman  
Respondent  
*Renaud Cook Drury Mesaros PA*  
One N. Central Avenue, Suite 900  
Phoenix, AZ 85004

Harriet Bernick  
Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 200  
Phoenix, AZ 85016-6288

by Neeta Manelkar