

JUL 09 2009

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

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

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4 IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
5)
6 **RICHARD ROBERT LUFF,**)
Bar No. 022931)
7)
8)
RESPONDENT.)
_____)

No. 08-1387

**DISCIPLINARY COMMISSION
REPORT**

9 This matter came before the Disciplinary Commission of the Supreme Court of
10 Arizona on June 13, 2009, pursuant to Rule 58, Ariz.R.Sup.Ct., for consideration of the
11 Amended Hearing Officer's Report filed June 3, 2009, recommending acceptance of the
12 Tender of Admissions and Agreement for Discipline by Consent ("Tender") and Joint
13 Memorandum in Support of Agreement for Discipline by Consent ("Joint Memorandum")
14 providing for a censure, six months of probation with the State Bar's Law Office
15 Management Assistance Program ("LOMAP") and Ethics Enhancement Program ("EEP")
16 and costs. On June 12, 2009, Respondent filed an untimely Request for Leave to File
17 Brief. The Commission Chair ordered the parties to advise the Commission in writing by
18 5 p.m. whether the Tender had been withdrawn. See Commission Order filed on June 12,
19 2009. The State Bar filed its Response indicating that the Tender has not been withdrawn.
20 On June 16, 2009, Respondent filed his Unilateral Response and indicated he did not wish
21 to withdraw from the Tender. On June 30, 2009, the Commission Chair denied the
22 Request.
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Decision

1 Having found no facts clearly erroneous, the seven¹ members of the Disciplinary
2 Commission unanimously recommend accepting and incorporating the Hearing Officer's
3 findings of fact, conclusions of law, and recommendation for a censure, six-months of
4 probation (MAP and EEP) and costs of these disciplinary proceedings including any costs
5 incurred by the Disciplinary Clerk's Office.² The terms of probation are as follows:
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Terms of Probation

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8 1. Respondent shall contact the Director of LOMAP at (602) 340-7313 within
9 thirty (30) days of the date of the final Judgment and Order, to arrange for a LOMAP
10 examination of his office policies and procedures. The LOMAP examination shall take
11 place within sixty (60) days of the date of the Judgment and Order. Respondent shall
12 submit to a LOMAP examination of his office's procedures including, but not limited to,
13 his compliance with ERs 1.3, 3.2, 3.4(c), 8.4(d) and Rule 53(c), Ariz.R.Sup.Ct. The
14 Director of LOMAP shall develop "Terms and Conditions of Probation," which shall be
15 signed by Respondent, and those terms shall be incorporated herein by reference. The
16 probation period will begin to run at the time of the Judgment and Order and will
17 provisionally conclude six months from the date of which Respondent signs the "Terms
18 and Conditions of Probation." Respondent's probation may be extended for an additional
19 six months, at the discretion of the Hearing Officer. The State Bar may move to extend the
20 probationary period, by filing a motion with the Hearing Officer prior to the expiration of
21 the initial period of probation. Respondent shall have an opportunity to respond to the
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25 ¹ Commissioners Todd, Gooding and Horsley did not participate in these proceedings. Mary Carlton, a public
26 member from Phoenix, participated as an ad hoc member.

² The Amended Hearing Officer Report is attached as Exhibit A.

1 State Bar's motion. Respondent shall be responsible for any costs associated with
2 LOMAP.

3 2. Respondent shall attend a one-day of EEP. Respondent must contact the
4 EEP Coordinator, State Bar of Arizona, at (602) 340-7241, within twenty (20) days from
5 the date of the final Judgment and Order. Respondent shall be responsible for the cost of
6 attending the program.

7 3. Respondent shall refrain from engaging in any conduct that would violate
8 the Rules of Professional Conduct or other rules of the Supreme Court of Arizona.

9 4. In the event that Respondent fails to comply with any of the foregoing
10 probation terms, and the State Bar receives information thereof, Bar Counsel shall file a
11 Notice of Non-Compliance with the imposing entity pursuant to Rule (60)(a)(5),
12 Ariz.R.Sup.Ct. The imposing entity may refer the matter to a Hearing Officer to conduct
13 a hearing at the earliest practicable date, but in no event later than thirty (30) days
14 following receipt of notice, to determine whether a term of probation has been breached
15 and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent
16 failed to comply with any of the foregoing terms, the burden of proof shall be on the State
17 Bar to prove non-compliance by a preponderance of the evidence.
18

19 RESPECTFULLY SUBMITTED this 9th day of July, 2009.

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21
22 Jeffrey Messing per
23 Jeffrey Messing, Chair
24 Disciplinary Commission

25 Original filed with the Disciplinary Clerk
26 this 9th day of July, 2009.

Copy of the foregoing mailed
this 10th day of July, 2009, to:

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Douglas H. Clark
Hearing Officer 7J
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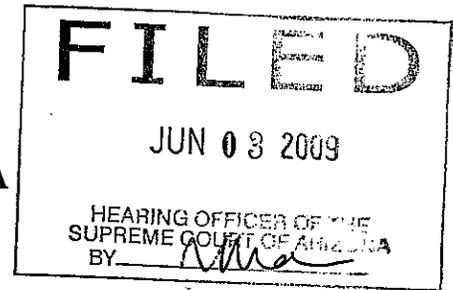
by: Evelyn Lopez

/cs

EXHIBIT

A

BEFORE A HEARING OFFICER
OF THE SUPREME COURT OF ARIZONA



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

No. 08-1387

RICHARD ROBERT LUFF
Bar No. 022931

HEARING OFFICER REPORT

Respondent.

Pursuant to the Hearing Officer's Report filed April 22, 2009, and the parties having filed their amended Joint Memorandum in Support of Tender of Admissions and Agreement for Discipline by Consent and their Tender of Admissions and Agreement for Discipline by Consent on May 29, 2009, the Hearing Officer accepts and adopts the agreement.

DATED this 1 day of June, 2009.

[Signature]
Douglas H. Clark, Jr.
Hearing Officer #7J

Original filed with the Disciplinary Clerk
this 3rd day of June, 2009.

Copy of the foregoing mailed
this 31st day of June, 2009, to:

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by: Wally Leger