

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER) Supreme Court
OF THE STATE BAR OF ARIZONA) No. SB-03-0082-D
)
) Disciplinary Commission
) Nos. 01-1161 & 01-1428
RAND MACDONALD,)
Attorney No. 004489)
)
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 no discretionary or *sua sponte* review occurring,

IT IS ORDERED, ADJUDGED AND DECREED that **RAND MACDONALD**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of thirty (30) days, effective thirty (30) days from the date of this order, for conduct in violation of his duties and obligations as a lawyer, as disclosed in the commission report.

IT IS FURTHER ORDERED that **RAND MACDONALD** shall be placed on probation for a period of two (2) years upon reinstatement, under the following terms and conditions:

- 1) Respondent will, within thirty (30) days after reinstatement, contact the director of the Law Office Management Assistance Program (LOMAP) at the State Bar of Arizona to schedule a law office audit regarding communication, calendaring and diligent representation of clients (e.g., a tickler system). The LOMAP director or her designee will complete an audit of Respondent's law office procedures no later than sixty (60) days after Respondent is reinstated. Following the audit, Respondent will enter into a Memorandum of Understanding that will be effective for a period of six (6) months after all parties have signed the Memorandum. Respondent will have contact with the director of LOMAP or her designee on a monthly basis to discuss his compliance with the terms of the Memorandum of Understanding and will meet with the director of LOMAP three (3) months and six (6) months after the date that all parties signed the Memorandum.
- 2) Respondent shall be responsible for the costs and expenses associated with his participation in the LOMAP program.
- 3) Within sixty (60) days of the date Respondent is reinstated, Respondent will contact the director of the Member Assistance Program (MAP) at the State Bar of Arizona. Respondent will undergo an assessment and comply with all recommendations of the evaluator for a period of two (2) years (e.g., counseling, therapy, subsequent assessments).

- 4) In the event Respondent fails to comply with any of the foregoing terms, and information thereof is received by the State Bar, bar counsel shall file with the Hearing Officer a Notice of Non-Compliance. The Hearing Officer shall conduct a hearing at the earliest possible date, but in no event later than thirty (30) days following receipt of notice, to determine whether a condition of probation has been breached and, if so, to recommend an appropriate sanction.
- 5) If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that Respondent shall pay in full any and all claims paid by the Client Protection Fund, not to exceed the maximum permissible payment of \$100,000.00.

IT IS FURTHER ORDERED that Respondent shall comply with all the provisions of Rule 63, Rules of the Supreme Court of Arizona, including, but not limited to, Rule 63(a), which requires that Respondent notify all of his clients, within ten (10) days from the date hereof, of his inability to represent them and that he should promptly inform this Court of his compliance with this Order as provided in Rule 63(d).

IT IS FURTHER ORDERED that Respondent shall comply with all rule provisions regarding reinstatement proceedings.

IT IS FURTHER ORDERED that pursuant to Rule 52(a)8, the State Bar of Arizona is granted judgment against **RAND MACDONALD** for costs and expenses of these proceedings in the amount of \$718.83, together with interest at the legal rate from the date of this judgment.

DATED this _____ day of _____, 2003.

NOËL K. DESSAINT, Clerk

TO:

Rand MacDonald, Respondent (Certified Mail, Return Receipt)
James D. Lee, Senior Bar Counsel
Anne H. Phillips, Hearing Officer 9Y
Douglas M. Brooks, Clerk, Disciplinary Commission (Cert. Copy)
Dee Steadman, Lawyer Regulation Records Manager, State Bar of Arizona (Cert. Copy)
Cathy Catterson, Clerk, United States Court of Appeals for the Ninth Circuit (Cert. Copy)
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