

FILED

AUG 12 2004

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

BEFORE THE DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A SUSPENDED MEMBER ) No. 02-0588  
OF THE STATE BAR OF ARIZONA, )

**JAMES P. PULITO,**  
**Bar No. 003840**

)  
)  
) **DISCIPLINARY COMMISSION**  
) **REPORT**  
)

RESPONDENT.  
\_\_\_\_\_)

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on July 10, 2004, pursuant to Rule 58(e), Ariz. R. S. Ct., for consideration of the Hearing Officer's Report filed April 9, 2004, recommending a one year suspension, conditions of reinstatement, restitution and costs. The State Bar appealed and the matter was set for oral argument. Respondent and counsel for the State Bar were present. The State Bar argued that the presumptive sanction for this matter was disbarment, that the Hearing Officer erroneously failed to find aggravating factors 9.22(h) vulnerability of victim, 9.22(j) indifference to restitution and 9.22(k) illegal conduct, and that a lengthy suspension of three to five years is an appropriate sanction. Respondent argued that a one year retroactive suspension is appropriate, as he voluntarily has suspended himself from the practice of law for nineteen months. Respondent was summarily suspended from the practice of law on February 21, 2003 for failure to comply with the State Bar's Mandatory Continuing Legal Education requirements and remains suspended.



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Therefore, having found no findings of fact clearly erroneous, the nine members of the Commission unanimously recommend adopting and incorporating by reference the Hearing Officer's findings of fact, conclusions of law, and recommendation for a one year suspension and prior to reinstatement, completion of six hours of ethics courses involving conflict of interest, confer with a mental health professional for an assessment, and payment of restitution to Edward Guenther in the amount of \$9,740.00 plus interest at 10% per annum from December 31, 2001 until paid, payment of any civil judgment imposed, and costs of these disciplinary proceedings.

The Commission however, finds *de novo* that aggravating factor 9.22(k) illegal conduct is supported by the record. The Hearing Officer found that Respondent admitted that he utilized the false billing to perpetuate the deception which was expressed prior to the date of the billing. *See* Hearing Officer Report, p. 3, Finding of Fact #21. Nonetheless, the Commission determined that the presence of this additional aggravating factor does not affect the outcome.

RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of August, 2004.

Craig B. Mehrens, Chair  
Disciplinary Commission



1 Original filed with the Disciplinary Clerk  
2 this 12<sup>th</sup> day of August, 2004, to:

3 Copy of the foregoing mailed  
4 this 12<sup>th</sup> day of August, 2004, to:

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6 Hearing Officer 8W  
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13 and

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