

**FILED**

OCT 12 2004

DISCIPLINARY COMMISSION OF THE  
SUPREME COURT OF ARIZONA

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, )  
)  
**LOUIE CARRASCO,** )  
**Bar No. 006246** )  
)  
)  
RESPONDENT. )  
\_\_\_\_\_ )

No. 02-1896

**DISCIPLINARY COMMISSION  
REPORT**

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on September 11, 2004, pursuant to Rule 58(e), Ariz. R. S. Ct., for consideration of the Hearing Officer's Report filed May 28, 2004, recommending a two year suspension, two years of probation upon reinstatement, with terms to be determined upon reinstatement, and costs of these disciplinary proceedings.

**Decision**

The Commission's standard of review is set forth in Rule 58(b), which states that the Commission reviews questions of law *de novo*. In reviewing findings of fact made by a hearing officer, the Commission applies a clearly erroneous standard.

Therefore, having found no findings of fact clearly erroneous, the nine<sup>1</sup> members of the Commission by a majority of seven,<sup>2</sup> recommend adopting and incorporating by reference the Hearing Officer's findings of fact, conclusions of law, but modify the recommended sanction to reflect a six month and one day suspension and two years of

<sup>1</sup> Commissioner Funkhouser did not participate in these proceedings. Anne Phillips, a Hearing Officer from Phoenix, participated as an ad hoc member.

<sup>2</sup> Commissioners Bowman and Choate were opposed and supported the Hearing Officer's recommended sanction.

1 probaton with terms to be determined upon reinstatement, and costs of these disciplinary  
2 proceedings.

### 3 Discussion

4 The State Bar argued in support of the Hearing Officer's recommendation of a two  
5 year suspension and two years of probation based on Respondent's similar prior  
6 disciplinary offenses.<sup>3</sup> The majority of the Commission found the recommended sanction  
7 to be unduly harsh. The prior conflict of interest violation was not considered  
8 Respondent's most serious misconduct, and arose while representing a client in a real  
9 estate transaction. Respondent was also the officer in a corporation owned by someone  
10 who had some liability to the client regarding the real estate transaction. Respondent failed  
11 to document his agreement to indemnify the client in writing and failed to document the  
12 potential conflict of interest in violation of ER 1.7. Additional more serious ethical rule  
13 violations were found involving a lack of diligence, failure to communicate with clients,  
14 and the failure to comply with trust account guidelines and a six month suspension and  
15 probation were imposed.  
16

17 The Commission concluded that given the unusual circumstances of this instant  
18 matter where heightened emotions were present and several family members were  
19 involved, a two year suspension seemed unduly harsh and punitive. The majority finds that  
20 a suspension of 6 months and one day and probation is sufficient to protect the public. A  
21 lengthy suspension seems unnecessary and moreover, does not advance the purposes of  
22 discipline. Serious consideration was also given to mitigating factor 9.32(k) imposition of  
23

24  
25  
26 <sup>3</sup> Respondent's prior offenses includes two informal reprimands in 1995 and 2001 for  
violating ER 1.3 (diligence), and an Agreement for a six month suspension and two years  
of probation (LOMAP and MAP) in 1997 for violating ERs 1.1, 1.3, 1.4, 1.7, 1.15, 8.1(b)  
and SCRs 43, 44, 51(h) and (i).

other penalties and sanctions.

1           Respondent was convicted of a felony on September 10, 2002, and sentenced on  
2           September 12, 2002, to 18 months of criminal probation for violating A.R.S. § 13-2409,  
3           obstructing a criminal investigation or prosecution, a Class 5 felony, a non-dangerous and  
4           non-repetitive offense.<sup>4</sup> Respondent contacted a crime victim<sup>5</sup> in a Child Protective  
5           Service shelter, by misrepresenting himself as the victim's attorney on May 20, 1998.  
6           Respondent's felony conviction was upheld on appeal and the Supreme Court denied  
7           review. For an in-depth review of Respondent's misconduct, refer to the attached and  
8           incorporated Hearing Officer's Report.  
9

10           The State Bar argued that Respondent should receive a lengthy suspension because  
11           these instant violations occurred while Respondent was on probation imposed with his  
12           previous suspension, File Nos. 94-1804, et al. Respondent however, had not experienced  
13           the full benefit of the rehabilitative programs (LOMAP and MAP), in which he was  
14           participating. Respondent successfully completed the terms of his previous probation on  
15           July 6, 2000. We are reminded that the Supreme Court views discipline as assisting, if  
16           possible, in the rehabilitation of the errant lawyer. *Matter of Scholl*, 200 Ariz. 222, 25 P.3d  
17           710. (2001). Here, Respondent was blinded by family and emotion, and although  
18           Respondent's prior disciplinary offenses involved a conflict of interest violation, it clearly  
19           was a minor component, as more serious ethical violations occurred.  
20

21           The Commission considered the proportionality analysis provided and noted that  
22           no Arizona cases offered by the parties were directly on point and involved a range of  
23

24  
25  
26           

---

<sup>4</sup> Rule 53(h)(l) provides that in cases involving a criminal conviction, proof of the conviction is conclusive evidence of the respondent's guilt and the sole issue to be determined is the extent of discipline to be imposed.

<sup>5</sup> The crime victim is Respondent's niece.

1 sanctions from disbarment to a six month suspension; however, *Matter of Politi*, SB-00-  
2 0106-D (2001), which the Hearing Officer found most relevant, involved similar violations  
3 including a conflict of interest and a Class 4 felony conviction for aggravated DUI. Politi  
4 entered into an Agreement for a two year retroactive suspension and two years of probation  
5 for violating ERs 1.7, 1.9, 8.4(b) and (d), and SCRs 51(a) and 57(a).

6 Respondent offered two disciplinary cases from other jurisdictions for a  
7 proportionality analysis which the Commission found instructive. In *Office of Disciplinary*  
8 *Counsel v. Klaas*, 91 Ohio St. 3d 86, 742 N. E. 2d 612 (2001), the respondent attempted to  
9 undermine the effectiveness of a drug raid conducted by federal and local law enforcement  
10 officers by secretly informing his former client of the upcoming drug raid. Klaus was  
11 convicted of attempted obstruction of justice and a one-year suspension, with six months  
12 of suspension stayed for probation was imposed.

13 In *Committee on Legal Ethics of the West Virginia State Bar v. Blair*, 174  
14 W.Va.494, 327 S.E. 2d 671 (1984), the respondent obstructed justice by suggesting to a  
15 witness that she not appear at trial. A six month suspension and three years of probation  
16 upon reinstatement was warranted.

17  
18 With a six month and one day suspension in this instant matter, Respondent will be  
19 required to submit to formal reinstatement proceedings and provide proof of rehabilitation.  
20 In addition, the recommended term of probation will enact further safeguards for  
21 protecting the public, should Respondent be reinstated to active practice.

22  
23 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of October, 2004.

24  
25   
26 \_\_\_\_\_  
Craig B. Mehrens, Chair  
Disciplinary Commission

Original filed with the Disciplinary Clerk  
this 12<sup>th</sup> day of October, 2004.

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

Dwight M. Whitley, Jr.  
Hearing Officer 9I  
*Chandler & Udall, L.L.P.*  
33 North Stone, Suite 2100  
Tucson, AZ 85701-1415

Louie Carrasco  
Respondent  
P.O. Box 2243  
Tucson, AZ 85072-2243

Denise M. Quinterri  
Bar Counsel  
State Bar of Arizona  
111 West Monroe, Suite 1800  
Phoenix, AZ 85003-1742

by: K. Weigand

/mps