

FILED

SEP 21 2005

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

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA
BY *K. Weigand*

1 2 3 4 5 6 7	IN THE MATTER OF A SUSPENDED MEMBER) OF THE STATE BAR OF ARIZONA,) STEWART P. HOOVER,) Bar No. 015807) RESPONDENT.)	Nos. 03-1249, 04-1177, 04-1479 04-1615, 04-1922, 04-1933 DISCIPLINARY COMMISSION REPORT
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This matter came before the Disciplinary Commission of the Supreme Court of Arizona on August 20, 2005, pursuant to Rule 58, Ariz. R. S. Ct., for consideration of the Hearing Officer's Report filed May 16, 2005, recommending a three-year suspension, two years of probation upon reinstatement, restitution, and costs of these disciplinary proceedings.

Decision

The Disciplinary Commission's standard of review is set forth in Rule 58(b), Ariz. R. S. Ct., 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. Mixed findings of fact and law are also reviewed *de novo*.

The nine¹ members of the Disciplinary Commission by a majority of eight,² recommend accepting and adopting the Hearing Officer's findings of fact and conclusions of law,³ but modify *de novo* the recommended sanction to reflect disbarment, two years of

¹ Commissioner Atwood did not participate in these proceedings. Former Commissioner William Rubin, an attorney from Tucson, participated as an ad hoc member.

² Commissioner Nelson was opposed and would have supported the Hearing Officer's recommendation.

³ The Hearing Officer inadvertently stated there are seven factors present in aggravation, when only six factors are present. See Hearing Officer's Report, p. 22:10.

1 probation upon reinstatement, restitution, and costs.⁴ The Commission determined that
2 based on the seriousness of Respondent's misconduct and given the significant aggravation
3 present, disbarment is an appropriate and proportional sanction. Restitution is as follows:

4 Dana Varney \$8,050.00⁵

5 RESPECTFULLY SUBMITTED this 21st day of September, 2005.

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Cynthia L. Choate, Chair
Disciplinary Commission

9 Original filed with the Disciplinary Clerk
10 this 21st day of September, 2005.

11 Copy of the foregoing mailed
12 this 21st day of September, 2005, to:

13 Stanley R. Lerner
14 Hearing Officer 7V
3707 North 7th Street, Suite 250
Phoenix, AZ 85014-5057

15 Stewart P. Hoover
16 Respondent
6607 North Scottsdale Rd., Suite H-102
17 Scottsdale, AZ 85250-4421

18 and

19 Steward P. Hoover
20 Respondent
21 P.O. Box 26328
Phoenix, AZ 85068

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⁴ The Hearing Officer's Report is attached as Exhibit A.

26 ⁵ Although recommended by the Hearing Officer, the Commission did not award restitution to Mr. Ellis for fees paid, or to Bank One for any trust account overdrafts and related administrative costs, as the evidence was insufficient to determine these amounts.

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by: *K. Weigand*

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