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DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

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

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3	IN THE MATTER OF A SUSPENDED MEMBER)	No. 03-1206	
4	OF THE STATE BAR OF ARIZONA,)		
5	GORDON M. WASSON,)		
6	Bar No. 09884)	DISCIPLINARY COMMISSION	
7	RESPONDENT.)	REPORT	
8	_____)		

8 This matter came before the Disciplinary Commission of the Supreme Court of
9 Arizona on March 12, 2005, pursuant to Rule 58, Ariz. R. S. Ct., for consideration of the
10 Hearing Officer's Report filed January 20, 2005 recommending acceptance of the Tender of
11 Admissions and Agreement for Discipline by Consent (Agreement) and Joint Memorandum
12 in Support of Agreement for Discipline by Consent (Joint Memorandum) providing for a
13 two year suspension retroactive to October 20, 2003,¹ two years of probation upon
14 reinstatement with the State Bar's Member Assistance Program (MAP), compliance with
15 Rule 32(c) Membership Fees, Rule 45 Mandatory Continuing Legal Education requirements
16 (MCLE), the criminal probation requirements imposed in Graham County Superior Court in
17 File No. CR2003-057 and Maricopa County Superior Court in CR2003-057, and costs of
18 these disciplinary proceedings.
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Decision

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22 The Disciplinary Commission's standard of review is set forth in Rule 58(b) Ariz. R.
23 S. Ct., which states that the commission reviews questions of law *de novo*. In reviewing
24 findings of fact made by a hearing officer, the commission applies a clearly erroneous
25 standard. *Id.* Mixed findings of fact and law are also reviewed *de novo*. *State v. Blackmore*,
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186 Ariz. 630, 925 P.2d 1347 (1996) citing *State v. Winegar*, 147 Ariz. 440, 711 P.2d 579 (1985).

2 The nine members of the Commission unanimously recommend accepting and
3 adopting the majority of the Hearing Officer's findings of fact and conclusions of law, and
4 his recommendation for a two year suspension retroactive to October 20, 2003, two years of
5 probation upon reinstatement (MAP), compliance with Rule 32(c) Membership Fees and
6 Rule 45 MCLE requirements, compliance with the criminal probation requirements imposed
7 in Files Nos. CR2003-057 and CR2003-057, and costs.²

9 In consideration of the mitigating factors offered in support of the Agreement, the
10 Commission determined that the evidence is insufficient to support a finding of mitigating
11 factor 9.32(i) mental or chemical dependency disability, as the 4-pronged criteria for
12 application of this factor has not been met. *See* 1992 Amendments to the ABA *Standards*
13 *for Imposing Lawyer Sanctions*. Specifically, Respondent has not shown a sustained period
14 of recovery as set forth in 9.32(i)(3), or that a recurrence of the misconduct is unlikely,
15 9.32(i)(4).

17 The record as supplemented shows that in July- August, 2001, Respondent received
18 in-patient treatment at Cottonwood De Tucson and treatment at Valley Hope in Parker,
19 Colorado, and that in 2002 he participated in behavioral counseling through several
20 addiction programs including MADD. However, one DUI occurred in October 2002, *after*
21 the completion of these programs. The only evidence of subsequent rehabilitation in the
22 record is a NOVA treatment plan dated March 9, 2004, and an AA attendance list for
23 December-November 2004 showing that Respondent attended five meetings at the end of
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¹ The effective date of Respondent's Interim Suspension.

² The Hearing Officer's Report is attached as Exhibit A.

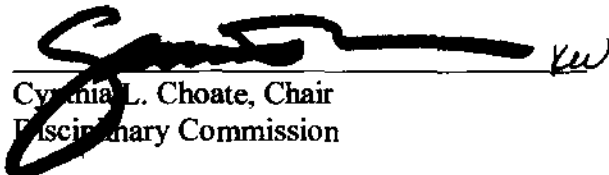
2004, a requirement of his criminal probation. See Second Notice of Filing Supplemental
1 Records, Exhibits A-B. The Commission determined that the existence of treatment and
2 attendance at five AA meetings is insufficient to establish a sustained period of recovery.

3 Based on this analysis, the Commission viewed Respondent's diagnosis of
4 Alcoholism and his subsequent treatment efforts as a mitigating factor under 9.32(c)
5 personal and emotional problems.
6

7 The Commission also found the evidence offered in support of mitigating factor
8 9.32(l) remorse, to be weak. The Hearing Officer relied on Respondent's guilty plea and his
9 willingness to enter into an agreement; however, the Commission determined that
10 Respondent's guilty plea and conviction are more applicable to mitigating factors 9.32(k)
11 imposition of other penalties or sanctions, and 9.32(e) full and free disclosure to disciplinary
12 board or cooperative attitude towards proceedings.
13

14 In closing, the Commission concluded that the proposed sanction was appropriate
15 notwithstanding the absence of the above mentioned mitigating factors; the sanction
16 adequately protects the public and is proportional to previous matters with similar
17 misconduct.

18 RESPECTFULLY SUBMITTED this 11th day of April, 2005.

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21 
22 Cynthia L. Choate, Chair
Disciplinary Commission

23 Original filed with the Disciplinary Clerk
24 this 11th day of April, 2005.

25 Copy of the foregoing mailed
26 this 11th day of April, 2005, to:

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15 /mps
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