

FILED

OCT 26 2004

HEARING OFFICER OF THE
SUPREME COURT OF ARIZONA
BY: *Williams*

**BEFORE A HEARING OFFICER
OF THE SUPREME COURT OF ARIZONA**

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3 IN THE MATTER OF A MEMBER OF THE
4 STATE BAR OF ARIZONA,

Nos. 01-2144 and 03-0304

5 **ROBERT G. ROBINSON,**
6 **Bar No. 003457**

**HEARING OFFICER'S REPORT
AND RECOMMENDATION**

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RESPONDENT.

Procedural History

The State Bar filed its complaint in this matter on November 17, 2003. Respondent filed his Answer on December 15, 2003. A settlement conference was held on January 30, 2004 with no success. This matter went to hearing on August 18, 2004, with stipulated facts in a Joint Pre-Hearing Statement filed August 13, 2004, which are incorporated herein.

Findings of Fact

1. In the course of representing Ms. Geisen (Count 1) in a divorce, Respondent was not diligent in completing a proposed divorce decree following a settlement reached on June 11, 2001. Therefore the court in a status conference on August 29, 2001, ordered Respondent to file any objections to the proposed divorce decree by August 31st and awarded attorney's fees against his client.

2. Ms. Geisen asked Respondent's office for a copy of the settlement conference transcript on or about July 18, 2001, but Respondent did not provide it and Ms. Geisen ordered it herself directly from the court. She told Respondent that it was necessary to compare the proposed decree with the settlement transcript because there were substantial differences.

1 ABA Standards

2 The ABA Standards list the following factors to consider in imposing the appropriate
3 sanction: (1) the duty violated, (2) the lawyer's mental state, (3) the actual or potential injury caused
4 by the lawyer's misconduct, and (4) the existence of aggravating or mitigating circumstances. ABA
5 Standard 3.0.

6 The Standards do not account for multiple charges of misconduct. The ultimate sanction
7 imposed should at least be consistent with the sanction for the most serious instance of misconduct
8 among a number of violations; it might well be and generally should be greater than the sanction for
9 the most serious misconduct. ABA Standards at p. 6. The most serious instances of misconduct are
10 the violations of ER 1.4. This Hearing Officer considered Standard 4.0 (Violations of Duties Owed
11 to Clients) in determining the appropriate sanction warranted by Respondent's conduct. Specifically,
12 Standard 4.43 (Lack of Diligence) provides that "Reprimand (censure in Arizona) is generally
13 appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a
14 client, and causes injury or potential injury to a client." This Hearing Officer also considered
15 Standard 7.0 (Violations of Other Duties Owed as a Professional). Specifically, Standard 7.3
16 provides that "Reprimand (censure in Arizona) is generally appropriate when a lawyer negligently
17 engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential
18 injury to a client, the public, or the legal system."
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21 Aggravating and Mitigating Factors

22 This Hearing Officer then considered aggravating and mitigating factors in this case,
23 pursuant to Standards 9.22 and 9.32, respectively. Three factors are present in aggravation: 9.22(a)
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1 prior disciplinary offenses¹, (d) multiple offenses, and (i) substantial experience in the practice of
2 law. One factor is present in mitigation: 9.32(g) character or reputation.

3 **Proportionality**

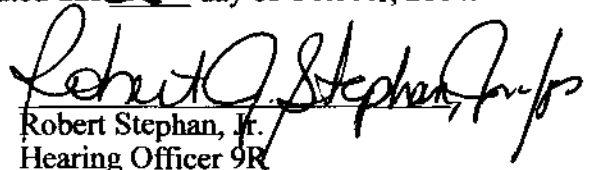
4 To have an effective system of professional sanctions, there must be internal consistency,
5 and it is appropriate to examine sanctions imposed in cases that are factually similar. In re Shannon,
6 179 Ariz. 52, 71, 876 P.2d 548, 567 (1994), (quoting In re Wines, 135 Ariz. 203, 207 (1983)).
7 However, the discipline in each case must be tailored to the individual case, as neither perfection nor
8 absolute uniformity can be achieved. Matter of Riley, 142 Ariz. 604, 615 (1984).

9 In considering an appropriate sanction, this Hearing Officer considered the following cases.
10 Matter of Roberson, SB-00-0074-D, 2000 Ariz. LEXIS 92 (2000), and cases cited therein. Mr.
11 Roberson received a censure and two years of probation for violating ERs 1.3, 1.4 and 8.1(b).
12 Matter of Augenstein, 177 Ariz. 581 (1994). Mr. Augenstein received a censure and two years of
13 probation for violating ERs 1.2, 1.3, 1.4, 1.15, 8.1 and SCR 51(h)(i).
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15 **Recommended Sanction**

16 Based on the evidence, the ABA *Standards*, a proportionality analysis and the aggravating
17 and mitigating factors, it is recommended that Respondent be censured, placed on two years
18 probation, including a LOMAP audit, and assessed the costs of these proceedings.

19 Dated this 26th day of October, 2004.

20 
21 Robert Stephan, Jr.
22 Hearing Officer 9R

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24 ¹ Respondent has previously received two informal reprimands, a censure and two diversions involving ERs 1.3
25 and 1.4 and other rules. Violations in Count 2 occurred while Respondent was in diversion. In light of this, a short
suspension may have even been indicated. ABA *Standard* 8.2.

3 this 26th day of October, 2004, to:

4 Ralph Adams
5 Respondent's Counsel
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13 by: Patti Williams

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