

FILED
JUN 29 2005
NOEL K. DESSAINT
CLERK SUPREME COURT

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER)
OF THE STATE BAR OF ARIZONA,)
)
)
MARTIN A. BIHN,)
Bar No. 014338)
)
RESPONDENT.)

Supreme Court
No. SB-05-0084-D

Disciplinary Commission
No. 03-2158

JUDGMENT AND ORDER

This matter having come on for hearing before the Disciplinary Commission of the Supreme Court of Arizona, it having duly rendered its decision and there having been no discretionary review and *sua sponte* review having been declined by the Court,

IT IS ORDERED, ADJUDGED AND DECREED that **MARTIN A. BIHN**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of sixty (60) days, effective thirty (30) days from the date of this order, for conduct in violation of his duties and obligations as a lawyer, as disclosed in the Disciplinary Commission Report.

IT IS FURTHER ORDERED that **MARTIN A. BIHN** shall be placed on probation for a period of two (2) years, effective upon reinstatement. The terms of probation are as follows:

- 1) Respondent must undergo a Law Office Management Assistance Program (LOMAP) assessment and enter into a probation agreement, incorporating all recommendations made by the LOMAP director or designee. The probation agreement must include the selection of a practice monitor, subject to approval by the Director of LOMAP or designee. Respondent must comply with the probation agreement, the requirements of which constitute additional terms of probation.
- 2) Respondent must undergo a Member Assistance Program (MAP) assessment, and enter into a therapeutic contract incorporating the recommendations of the MAP director or designee. In addition, a term of the MAP probation agreement will be Respondent's strict compliance with the treatment plan proposed by Respondent's expert witness, Dr. Jack Potts, in conjunction with this matter. Respondent must comply with the probation agreement, the requirements of which constitute additional terms of probation.

- 3) In the event that Respondent fails to comply with any of the foregoing conditions, and the State Bar receives information to that effect, bar counsel shall file with the Hearing Officer a Notice of Non-Compliance, pursuant to Rule 60(a)5, Ariz. R. S. Ct. The Hearing Officer shall conduct a hearing within thirty days after receipt of said notice, to determine whether the terms of probation have been violated and if an additional sanction should be imposed. In the event there is an allegation that any of these terms have been violated, the burden of proof shall be on the State Bar of Arizona to prove non-compliance by clear and convincing evidence.

IT IS FURTHER ORDERED that Respondent shall comply with all the provisions of Rule 72, Rules of the Supreme Court of Arizona, including, but not limited to, Rule 72(a), which requires that Respondent notify all of his clients, within ten (10) days from the date hereof, of his inability to represent them and that he should promptly inform this Court of his compliance with this Order as provided in Rule 72(e).

IT IS FURTHER ORDERED that Respondent shall comply with all rule provisions regarding reinstatement proceedings.

IT IS FURTHER ORDERED that pursuant to Rule 60(b), the State Bar of Arizona is granted judgment against MARTIN A. BIHN for costs and expenses of these proceedings in the amount of \$504.50, together with interest at the legal rate from the date of this judgment.

DATED this 29th day of June, 2005.

The foregoing instrument is a full, true and correct copy of the original on file in this office.

ATTEST

Noel K. Dessaint, Clerk of the Supreme Court
State of Arizona

By Lillian B. Breen Deputy

Noel K. Dessaint
NOEL K. DESSAINT
Clerk of the Court

TO:
Martin A. Bihn, Respondent (Certified Return Receipt/Regular Mail)
Ralph W. Adams, Respondent's Counsel
Loren J. Braus, Senior Bar Counsel
Richard N. Goldsmith, Hearing Officer
Cathy Catterson, Clerk, United States Court of Appeals for the Ninth Circuit (Cert. Copy)
Richard Weare, Clerk, United States District Court, District of Arizona (Cert. Copy)
Patricia Seguin, Disciplinary Clerk (Cert. Copy)
Sandra Montoya, Lawyer Regulation Records Manager, State Bar of Arizona (Cert. Copy)
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