BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF AN APPLICATION FOR REINSTATEMENT OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **JEFFREY L. BRADFORD,** **Bar No. 017148** Applicant.	**PDJ-2012-9069** [File No. 12-9069] **REPORT and RECOMMENDATION**

On October 26, 2012, the Hearing Panel ("Panel") composed of Anne B. Donahoe, a public member from Maricopa County, Teri M. Rowe, an attorney member from Maricopa County, and the Honorable William J. O'Neil, Presiding Disciplinary Judge ("PDJ") held a one day hearing pursuant to Supreme Court Rule 65(b)(1), Ariz.R.Sup.Ct. Shauna R. Miller appeared on behalf of the State Bar of Arizona ("State Bar") and J. Tyrrell Taber appeared on behalf of the Applicant. The Panel considered the testimony, the stipulated exhibits, the parties' Joint Prehearing Statement, and evaluated the credibility of the witnesses. The State Bar is opposed to reinstatement. The Panel now issues the following "Report and Recommendation," pursuant to Rule 65(b)(3), Ariz.R.Sup.Ct, recommending that reinstatement be denied.

Background

Mr. Bradford was admitted to practice law in Arizona on October 19, 1996. He transferred to inactive membership on June 30, 2009 and thereafter, was summarily suspended effective June 8, 2010 for failure to pay bar dues while on

inactive status. Mr. Bradford has been unemployed since 2009 and has been predominantly supported by family members. Prior to applying for inactive status, Mr. Bradford was involved in two disciplinary investigations that resulted in one order of diversion to fee arbitration (State Bar Matter No. 07-1621 in 2007) and one informal reprimand (State Bar Matter No. 07-1796 in 2008). In 2008, during the screening of File No. 07-17 96, Applicant self-reported alcohol problems. Mr. Bradford was informally reprimanded and placed on probation with LOMAP and MAP. It is those circumstances that this reinstatement will primarily focus on.

Individuals who have been suspended for more than two years are mandated to comply with the more stringent requirements of Rule 65. See Rule 64(f)(2)(B), Ariz.R.Sup.Ct. As a result, the burden of proof for Mr. Bradford in seeking reinstatement is to demonstrate by clear and convincing evidence his rehabilitation, compliance with all disciplinary orders and rules, fitness to practice, and competence.

I. FINDINGS OF FACT

1. Mr. Bradford was first admitted to the practice of law in Arizona on October 19, 1996.

2. On June 30, 2009, Mr. Bradford transferred to inactive status regarding State Bar membership.

3. By Order of the Board of Governors dated June 8, 2010 Mr. Bradford was summarily suspended from the practice of law in Arizona as a result of his non-payment of inactive member dues.

4. Prior to applying for inactive status, Mr. Bradford was the subject of two disciplinary investigations by the State Bar.

a) On December 19, 2007, Mr. Bradford received an Order of Diversion (Fee Arbitration) in State Bar file no. 07-1621. Probable cause existed that Applicant violated Rule 42, Ariz. R. Sup. Ct., ER 1.4, 1.5, and 1.16(d). Mr. Bradford has not undertaken this fee arbitration despite this Order.

b) On July 3, 2008, Applicant received an Order of Informal Reprimand, Probation and Costs in State Bar file no. 07-1796. Applicant violated Rule 42, Ariz.R.Sup.Ct., ER 1.3 and ER 8.1(b). The Order directed that costs be paid within thirty days. Costs were paid October 25, 2012.

5. In June of 2008 during the pendency of the State Bar's investigation of file no. 07-1796, Mr. Bradford self-reported problems with alcohol to the State Bar through State Bar Counsel Matthew McGregor on or about June 9, 2008.

6. As a result of these issues, in addition to receiving an informal reprimand, Mr. Bradford was also placed on probation in October of 2008 and agreed to go through the State Bar's Member Assistance Program for drug and alcohol dependency.

7. Mr. Bradford did not initially participate in probation. In April of 2009 he began rehabilitation at St. Luke's Behavioral Health, and then spent ninety (90) days in inpatient rehabilitation at Pine Grove Behavioral Health and Addiction Facility in Hattiesburg, Mississippi upon the recommendation of then-Members Assistance Program Director, Hal Nevitt. After successfully completing a ninety (90) day treatment program at Pine Grove, Mr. Bradford moved to Berkeley, California to live with his mother.

8. After moving to California, Mr. Bradford continued to satisfy the terms of his probation (State Bar File #07-1796) by attending Alcoholics Anonymous meetings, treating with a psychiatrist and taking random urine drug tests and quarterly hair follicle drug tests.

9. On 05/29/2012, Amy Rehm, Deputy Chief Bar Counsel, filed a Notice of Completion of Probation noting that Mr. Bradford had "substantially complied with the terms of probation."

10. Mr. Bradford has not applied for reinstatement prior to this matter.

11. Mr. Bradford has been unemployed since April 2009. From April 2009 to present he has been wholly supported by his family.

12. Mr. Bradford resided in two residences during the period of suspension; (i) 166 Hillcrest, Berkeley, California 94705, owned by his mother, Linda Bradford; and (ii) 3215 East Weldon, Phoenix, Arizona 85018, owned by Mr. Bradford's father and stepmother, Michael and Jean Bradford.

13. Mr. Bradford has not been a party to any criminal action during the period of his suspension.

14. Mr. Bradford was involved in multiple civil matters during the period of suspension.

15. No claims were made, and Mr. Bradford does not owe, any amount to the Client Protection Fund.

16. Mr. Bradford has not paid, nor been required to pay, delinquent membership dues.

17. Mr. Bradford has been taking the Arizona State Real Estate Exam Preparation Course at Arizona School of Real Estate and Business in Scottsdale. He

testified that he has taken eighty six (86) of the ninety (90) required hours and will take the exam one week after the Hearing.

18. There has been no procedure or inquiry concerning Mr. Bradford's standing as a member of any profession or organization or holder of any license or office that involved the reprimand, removal, suspension, revocation of license or discipline of the Mr. Bradford.

19. There have been no charges of fraud, formal or informal, made or claimed against Mr. Bradford during the period of rehabilitation.

20. Mr. Bradford had not taken continuing legal education courses since his transfer to inactive status and his administrative suspension until October of 2012 when he completed a five (5) credit hour course on homeowner rights.

II. Testimony

Testimony of Mr. Hal Nevitt

Mr. Nevitt established his extensive credentials and history as a substance abuse counselor and former Director of the Member Assistance Program (MAP) at the State Bar. He is presently a counselor in private practice in Phoenix, Arizona. As Director of MAP Mr. Nevitt testified his primary responsibility consisted of evaluating voluntary and mandatory participants in the program.

Mr. Nevitt first met Mr. Bradford in June of 2008 for a clinical interview, following Mr. Bradford's self-reporting of alcohol abuse. His diagnostic impression of Mr. Bradford was that Mr. Bradford suffered from anxiety and depression exacerbated by alcohol usage. However, Mr. Bradford was not candid regarding his serious drug use and Mr. Nevitt knew nothing of it. There was then a period of

approximately nine (9) months in which Mr. Nevitt attempted to enact a voluntary therapeutic contract with Mr. Bradford, but could not locate him. In April of 2009, Mr. Nevitt received information that Mr. Bradford was in St. Luke's Behavioral Health for substance abuse treatment. At this time he recommended that Mr. Bradford take action to address what was the more significant substance abuse issue that had been undisclosed in the June of 2008 clinical interview. He recommended that Mr. Bradford go to Pine Grove Rehabilitation Center in Hattiesburg, Mississippi. Following Mr. Bradford's treatment at Pine Grove, a plan was developed for him to enter after care in California where he would have a safe recovery environment residing with his mother.

Mr. Nevitt became Mr. Bradford's monitor under MAP, and between April 1, 2010 and October 16, 2010, the two had one meeting and exchanged approximately 25 emails. His primary task as a monitor is to support the person in staying in compliance with the terms of the MAP contract as opposed to the health care professional who would evaluate, treat and conduct assessments. As a monitor he would review those evaluations to determine compliance. Mr. Nevitt testified that Mr. Bradford did well and followed all of Pine Grove's suggestions for after care, and does not believe there were any positive drug tests. His monitoring reports note an excellent attitude on the part of Mr. Bradford and compliance with the treatment plan.

After probation was completed, the two did not have additional contact until Mr. Bradford returned to Phoenix in the summer of 2012. Mr. Nevitt's impression is that Mr. Bradford is working the steps, attending meetings, and not using alcohol or drugs. He testified that Mr. Bradford was in denial when he originally met him, but

believes that he has now addressed the issue of his addiction, and shows a commitment to the terms and conditions of the treatment team at Pine Grove and the State Bar. He notes a transition in Mr. Bradford's thinking to understanding that he now needs to do the things he is doing to remain clean and sober.

Testimony of Michael Bradford, Esq.

Michael Bradford is Mr. Bradford Jeffrey Bradford's father. He is a member of the Bar, an attorney in private practice, and was for two and a half years a Superior Court Judge in Maricopa County. Michael Bradford testified that Jeffrey Bradford had a car accident in his senior year of high school, and sustained what Michael Bradford described as a brain stem injury that caused left side hemi-paresis (partial paralysis) that has never completely resolved.

Jeffrey Bradford worked for his father for six years when he initially graduated from law school, and performed what his father described as very good quality work related to his medical malpractice litigation practice. He displayed competence and knowledge of the law, and was responsible for a significant case in the medical field, *Webb v. BOMEX*. Jeffrey then went to work for Mr. Taber.

Michael Bradford testified that he believes his son did well in his drug and alcohol rehabilitation while in California, adhering to all requirements of after care. He believes that for the last year his son has been "fully back." He states that Jeffrey was competent as a lawyer prior to his substance abuse issues, and concludes that as a result he would be competent again. Jeffrey has not done legal work for his father since 2003. He stated that he cannot imagine Jeffrey would encounter anything in the practice of law that would be as stressful as the

reinstatement proceedings have been, and that there has been no suggestion by anyone that Jeffrey would relapse into substance abuse.

Testimony of Fredrick Berry Jr., Esq.

Mr. Berry is a lawyer admitted to the Arizona Bar in 1973, active as a hearing officer on the Disciplinary Committee for many years prior to the institution of the new disciplinary system in 2011. He presently serves on the Supreme Court committee on Character and Fitness, is a member of the Membership Assistance Committee for the State Bar, and has been a practice monitor for approximately ten individuals. Mr. Berry has also been a sponsor of approximately thirty individuals (lawyers and non-lawyers) through Alcoholics Anonymous, including Jeffrey Bradford for the last month. Mr. Berry first met Mr. Bradford at a weekly 12-step meeting in August of this year. Mr. Bradford returned to a meeting a few weeks later and shared with Mr. Berry that he was seeking readmission to the Bar. Although he has been Mr. Bradford's sponsor for only one month, Mr. Berry has met with him approximately eight times. Mr. Berry believes that Mr. Bradford is dedicated to recovery. He also believes that Mr. Bradford has been clean and sober since he met him; and he believes Mr. Bradford when he says he has been sober for three years.

Testimony of Sandra Montoya

Ms. Montoya is the Lawyer Regulations Records Manager for the State Bar. She testified that she sent Mr. Bradford copies of Arizona Supreme Court Rules 64 and 65 governing reinstatement via email on June 28, 2012. The email included the information that he must pay outstanding discipline fees of $1,206.30 (the

amount at that time) from file 07-1796 before he could be reinstated. The email also detailed the costs of reinstatement, totaling $1,100 for investigation and application. Further emails and phone calls transpired between August and October of 2012, and Mr. Bradford ultimately paid $1,231.34 to settle the discipline fee (representing the initial cost of $862.15 plus accrued interest) on or about October 19, 2012.

Testimony of Linda Bradford

Mrs. Bradford is Jeffrey Bradford's mother, and lives in Berkeley, California. She has a Masters in Social Work, and has been a medical social worker for thirty years. She testified that in her professional role she has frequent contact with people dealing with drug and alcohol problems. Jeffrey lived with her following his release from rehab, and she testified that she observed that he took all the steps required of him including daily meetings. He was sober the entire time he was with her. Additionally, he was helpful to her regarding her own health problems with cancer.

She testified that he initially intended to stay with her for only six months, and that one condition of living with her was that he get a job. Although he never did so, he did become active in volunteering with her, and resumed going to church. She felt that he was generous in spirit, matured a great deal, and gained insight while he was living with her. She observed that he was active in his recovery program and had no positive drug and alcohol tests while he was with her.

Testimony of Jeffrey L. Bradford

Mr. Bradford testified about his educational, work and religious background, including the importance to him in his recovery of his belief in God. He described his background in legal work, including the years he worked for his father and then at Myers, Taber and Myers. Mr. Bradford did medical malpractice work and commercial litigation work, until the time that the latter law firm dissolved and he went out on his own. After approximately eighteen months on his own, Mr. Bradford joined the Britt Law Firm doing retail construction and real estate work.

Mr. Bradford testified that the five clients he was managing just before going into rehab were taken care of by his father and friends, and that none of the clients were harmed and no disciplinary issues resulted from those cases. There is some inconsistency on the testimony on this matter, as Jeffrey stated that he initially wanted to get extensions until he came back from rehab, but then his friends and family helped him with the cases. This testimony conflicts with the letters sent by Michael Bradford to judges and clients regarding Jeffrey's status with the Bar. Michael Bradford both testified to and stated in letters to Jeffrey's clients and judges that Jeffrey believed that the State Bar would intercede to protect his client's interests. Michael Bradford discussed this belief with Hal Nevitt and learned it was incorrect, at which point Michael Bradford wrote the letters.

Mr. Bradford stated that his drug abuse got "out of hand" in 2007 right before he went to work for the Britt firm. In June of 2008, he self-reported alcohol abuse to the State Bar as part of screening in a disciplinary matter. He did not disclose his drug problems. At that time he agreed to probation, and signed terms of probation on October 16, 2008. However, he continued his lifestyle of both drug

and alcohol abuse and ignored his terms of probation. He did not enter rehab until April of 2009, and did so only due to his sister's intervention. His drug use was daily and he had an associated mood disorder because of that drug use. He signed himself into rehab for thirty days at St. Luke's Behavioral Health in April of 2009, there he first admitted the extent of his drug use. He agreed to take medication for the mood disorder, although he believed it was related to his drug use. Mr. Bradford then continued inpatient rehab for an additional ninety days at Pine Grove. After his release from Pine Grove and moving to Berkeley, Mr. Bradford testified that he went to more than the required ninety meetings in his first ninety days (sometimes doing two or three meetings in one day), and met the other requirements of his treatment plans from both Pine Grove and the State Bar. This included continuing the medications for a total of one year.

One or two months after relocating to California, Mr. Bradford signed a new probation agreement with the Bar, which required random urine drug tests and quarterly hair follicle tests. Mr. Bradford testified he did not stay active and committed to AA while in California. He did an initial flurry of meetings for about 100 days, but he felt he did not fit in with the program where he had been attending. In addition he said he wasn't feeling well due to side effects of the medication he was taking. For the next eighteen months he went to meetings about two to three times per week. He was candid in his testimony in stating that in approximately 2011 his attendance substantially dropped off and he went to relatively few meetings.

Mr. Bradford testified that he was unaware of the requirement to pay dues while on inactive status. He intentionally did not read the letters he received from

the State Bar regarding monies due because he felt that they were merely statements for annual fees from 2009. He acknowledges that he was less than diligent. However, he states that he did not know if he wanted to practice law again, was focused on his recovery, and had no means to pay in any event.

Regarding the past disciplinary fees, Mr. Bradford testified that when he received Ms. Montoya's email regarding the disciplinary fees due, he initially felt that the disciplinary fee mentioned was incorrect or did not apply to his application. He checked Rule 65 for what fees were due, and noted that the only fees required were the costs of investigation and application, repayment if any to the Client Fund, and past dues if any. His thoughts were that other costs did not need to be paid with his application, that they were due at some later time. Mr. Bradford also testified that he failed to include certain of his debts in his reinstatement application. He testified this was an oversight and he has every intention of paying all his financial debts.

Mr. Bradford testified that he always had great respect for the law, and if reinstated would pursue some sort of transactional practice, such as litigation management or commercial real estate. He testified that he liked being a lawyer some of the time, and those times when he was helping people. He believes that he would make a much better attorney now than he was in his past. He states that he has now returned to Arizona and has had the epiphany that he needs to stay clean and sober, that he is active in Alcoholics Anonymous, enjoys going to meetings, and he believes recovery is now a basic part of his life.

III. ANALYSIS UNDER RULE 65(B)(2), ARIZ.R.SUP.CT.

Pursuant to Rule 64(f)(2)(B), Ariz.R.Sup.Ct., because Mr. Bradford has been suspended for over two years, he must submit to formal reinstatement proceedings pursuant to Rule 65. Rule 65(b)(2) requires the lawyer seeking reinstatement to demonstrate by clear and convincing evidence the lawyer's rehabilitation, compliance with all disciplinary orders and rules, fitness to practice, and competence. Mr. Bradford bears the burden of proof that he has met the criteria for reinstatement.

Additionally, in *Matter of Arrotta*, 208 Ariz. 609, 96 P.3d 213 (2004), the court held that the following four factors are to be considered for reinstatement: 1) the Mr. Bradford's character and standing prior to disbarment (suspension in this matter), 2) the nature and character of the charge for which disciplined, 3) the Mr. Bradford's conduct subsequent to the imposition of discipline, and 4) the time which has elapsed between the order of suspension and the application for reinstatement. *Arrotta* further held that to establish rehabilitation, Mr. Bradford must identify and affirmatively show that he has overcome the weaknesses that produced the earlier misconduct.

IV. Discussion

Mr. Bradford stated in his prehearing memorandum, as well as at the Hearing, that the reason for his suspension in 2010 was purely administrative, i.e. failure to pay dues while on inactive status. This statement while factually correct ignores that he was in the throes of not only an alcohol addiction for at least two years prior, but drug addiction which he was not candid about. These twin issues of addiction led him to seek inactive status. It is this addiction and his lengthy

absence from the practice of law that are of concern to the Panel in evaluating his reinstatement.

Rehabilitation

Two experienced professionals, one a lawyer with extensive history in lawyer discipline, and one a substance abuse counselor and previous head of the Member Assistance Program of the State Bar, testified that Mr. Bradford is personally committed to his recovery and has remained clean and sober in their respective periods of engagement with him. We do not question his commitment and both applaud and encourage Mr. Bradford.

However, the Panel notes that there are shortcomings in the evidence that are cause for concern. Mr. Nevitt's experience with Mr. Bradford while important, was only perfunctory. It was conducted long distance for the most part, and communications were primarily through email. There is no semblance between the supervision of the type offered by the State Bar Member Assistance Program and the more intensive probation that would occur in Superior Court. This is not to demean the efforts of the Member Assistance Program of the State Bar but rather to give it perspective. While Mr. Nevitt is insightful, experienced and doubtlessly helped countless attorneys in his career with the State Bar, his testimony is limited by the designed narrow nature of his "supervision".

Mr. Berry has been Mr. Bradford's sponsor for only one month, and although he is supportive, no sponsors from Mr. Bradford's longer history of recovery testified. Dr. Michel, the psychiatrist whom Mr. Bradford saw during his stay in California, was not called to testify. No records from his lengthy duration in

California were presented. The record contains one drug test result, dated October 10, 2012, taken in Phoenix.

We appreciate the candor in the testimony of Mr. Bradford. It aids his application. Still we cannot ignore the lapses in his application anymore than the fact that his progress waned in 2011 substantially. If he did not relapse during that time, it is no doubt in part because of his commitment but also the remarkable and laudatory efforts of his mother, whose practical real life commitment to him is apparent. She obviously sought to transfer character into him not only through words but by rubbing shoulders together with him in the fight one day at a time. She did not turn away from the scars of his addiction but rather embraced him. It is apparent she not only spoke support but invested herself shoulder to shoulder, forcing him to invest himself in community service. There are few better character builders than lifting up others through community service. Time will tell whether his new support system in Arizona is as strong as that which guided him in his healing process while in California. His one month with Mr. Berry as his sponsor in Arizona is not a sufficient time to alleviate that concern.

We also note there was no background information provided on Mr. Bradford's drug use, with the exception that he testified he had become a daily drug user before entering St. Luke's at his sister's insistence. No medical or other records indicate even what drugs Mr. Bradford was struggling with.

The Panel gives weight to Mr. Bradford's recovery efforts. However, the burden of proof is upon the Applicant and it is by clear and convincing evidence. The Panel finds that further evidentiary support is required to demonstrate his

commitment to recovery for a further period of time. Unfortunately, there are other deficits as well.

Compliance with Disciplinary Rules and Orders

The Hearing Panel has concerns in the area of compliance. When Mr. Bradford self-reported his addiction to the State Bar and was screened for disciplinary infractions, he reported only alcohol as a factor, not drugs. Although he voluntarily submitted to probation, he was still bound by those terms. He violated those terms by his continued use of both drugs and alcohol. He also absconded from that supervision. He was unable to be found by his monitor, Hal Nevitt, despite active efforts to locate him.

In addition to these violations, Mr. Bradford incurred costs in his informal reprimand in July of 2008, which remained unpaid until October of 2012. Mr. Bradford was ordered to fee arbitration in 2007 for State Bar matter number 07-1621. He still has not done so. Perhaps Mr. Bradford efforts in striving to overcome his addiction caused these shortfalls. However, he testified that he has been clean and sober for three years and yet has had not make an effort to clear up even one of these matters until very recently.

For a member seeking readmission to his profession, Mr. Bradford does not demonstrate a strong interest in meeting the profession's requirements.

It is also of concern that he has ignored multiple court orders to appear and had several warrants to appear. He has multiple delinquent accounts which have resulted in a judgment and a lien being recorded against him. These he failed to list on his application. As testified to by him, he could have run a free credit score check on himself but he chose not to.

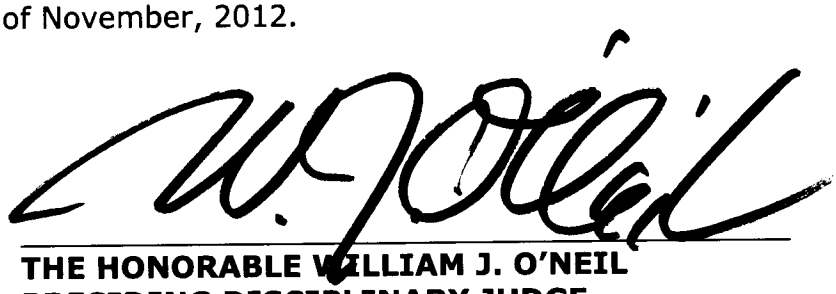
Fitness to Practice and Competence

Mr. Bradford has not worked during his cumulative three and a half years of inactive status, suspension and recovery. He testified that he has done ninety hours of real estate school, which he believes would assist him in a legal real estate practice. However Mr. Bradford testified that he undertook the real estate training just to be back working on something for eight hours a day. The shortcomings of this type of training are apparent – real estate school is not legal training, and does not make you competent to practice even real estate law. It is curious that Mr. Bradford did not seek to put the same effort into continuing legal education, work as a paralegal, or doing legal research or brief writing. Instead Mr. Bradford chose real estate, which does not support his legal competence. He did not take any continuing legal education during the last three and a half years until October 2012, when he completed five hours on homeowner rights.

IV. Conclusion

The Panel finds that Mr. Bradford has failed to meet the burden of proof by clear and convincing evidence of his rehabilitation, compliance with all disciplinary orders, fitness and competence to practice pursuant to Rule 65(b)(2), Ariz.R.Sup.Ct. The Hearing Panel unanimously recommends that Mr. Bradford's Application for Reinstatement be denied.

DATED this 28 day of November, 2012.



THE HONORABLE WILLIAM J. O'NEIL
PRESIDING DISCIPLINARY JUDGE

CONCURRING:

Teri M. Rowe, Volunteer Attorney Member

Anne B. Donahoe, Volunteer Public Member

Original filed with the Disciplinary Clerk
this 28th day of November, 2012.

COPY of the foregoing mailed this
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