

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER)	Supreme Court
OF THE STATE BAR OF ARIZONA,)	No. SB-10-0129-D
)	
)	Disciplinary Commission
)	No. 09-0841
MARSHALL FEALK,)	
Bar No. 003332)	FILED 01/04/2011
)	
RESPONDENT.)	JUDGMENT AND ORDER
_____)	

This matter having come before the Disciplinary Commission of the Supreme Court of Arizona, it having duly rendered its decision, and there having been no discretionary or *sua sponte* review occurring,

IT IS ORDERED, ADJUDGED AND DECREED that **MARSHALL FEALK**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of thirty days, effective thirty 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 **MARSHALL FEALK** shall be placed on probation for a period of one year upon reinstatement. The terms of probation are as follows:

1. Respondent shall participate in LOMAP for the period of probation.
2. Respondent shall contact the LOMAP director at (602) 340-7332 within thirty days of the date of the final Judgment and Order. Respondent shall submit to a LOMAP examination of his office's procedures, including, but not limited to, compliance with ER 1.15 and Rule 43. The Director of LOMAP shall develop "Terms and Conditions of Probation", and those terms shall be incorporated herein by reference. The probation period will begin to run at the time of the Judgment and Order and will conclude one year from that date. Respondent shall be responsible for any costs associated with LOMAP.
3. Respondent shall, at his own expense, utilize the services of a qualified bookkeeper/accountant approved by LOMAP to maintain his client trust account(s).
4. The individual selected by Respondent to maintain his client trust account(s) shall, within thirty days of the final Judgment and Order, complete a three-hour course sponsored by the State Bar of Arizona on Trust Account Management at Respondent's expense, or shall provide proof to LOMAP that he or she previously has attended such a program. This requirement may be satisfied by completion of such a program in person, by webcast or by completing a program available on-line through the State Bar of Arizona's Continuing Legal Education department.

5. The State Bar shall report material violations of the terms of probation pursuant to Rule 69(a)(5), Ariz. R. Sup. Ct., and a hearing may be held within thirty days to determine if the terms of probation have been violated and if an additional sanction should be imposed. The burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the 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 **MARSHALL FEALK** for costs and expenses of these proceedings in the amount of \$2,857.50, together with interest at the legal rate from the date of this judgment.

DATED this _____ day of January, 2011.

Rachelle M. Resnick
Clerk of the Court

TO:
Marshall Fealk, Respondent
Dean Christoffel, Respondent's Counsel
Robert L. Tepper, Senior Bar Counsel
Hon. Jonathan Schwartz, Hearing Officer 6S
Nancy Swetnam, Acting Disciplinary Clerk
Sandra Montoya, Lawyer Regulation Records Manager, State Bar of Arizona
Molly Dwyer, Clerk, United States Court of Appeals for the Ninth Circuit
Attn: Don Lewis
Richard Weare, Clerk, United States District Court, District of Arizona
Attn: Beth Stephenson
West Publishing Company (Jode Ottman)
Lexis/Nexis
chj