

**FILED**

OCT 23 2006

HEARING OFFICER OF THE  
SUPREME COURT OF ARIZONA  
BY LSW

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

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5 IN THE MATTER OF A MEMBER ) No. 05-2003  
6 OF THE STATE BAR OF ARIZONA, )  
7 )  
8 **PAUL B. RUDOLPH,** )  
9 **Bar No. 014027** )  
10 ) **HEARING OFFICER'S REPORT**  
11 )  
12 ) **RESPONDENT.** )  
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**PROCEDURAL HISTORY**

12 This matter was initiated by the filing of a Tender of Admissions and  
13 Agreement for Discipline by Consent on July 26, 2006, presented by the State  
14 Bar and Respondent, in conjunction with a Joint Memorandum in Support of  
15 Agreement by Consent. On August 23, 2006, the State Bar filed a Notice of  
16 Request to be Heard, and an Aggravation/Mitigation Hearing (Hearing) was  
17 conducted on September 21, 2006. At the Hearing, Bar Counsel appeared along  
18 with Respondent, who appeared with counsel. On October 5, 2006, Respondent  
19 with Bar Counsel's consent submitted a Motion to Consider Post-Hearing  
20 Evidence, and the Motion was granted.  
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## PROPORTIONALITY REVIEW

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2 25. To have an effective system of professional sanctions, there must be  
3 internal consistency, and it is appropriate to examine sanctions imposed in cases  
4 that are factually similar. In re Shannon, 179 Ariz. 52, 71, 876 P.2d 548, 567  
5 (1994), (quoting In re Wines, 135 Ariz. 203, 207 (1983)). However, the  
6 discipline in each case must be tailored to the individual case, as neither  
7 perfection nor absolute uniformity can be achieved. Matter of Riley, 142 Ariz.  
8 604, 615 (1984).  
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11 26. The proportionality of the penalty is appropriate in light the following  
12 precedent disciplinary matters. As reflected in the Joint Memo in Support of  
13 Discipline by Consent, the Bar Counsel and Respondent were not able to locate a  
14 prior case involving misdemeanor conviction for harassment. They did refer to  
15 other cases that this Hearing Officer agrees support the proposed sanction  
16 described in this Report.  
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19 a. In re Levine, SB-99-0049-D (1999), the lawyer was censured for  
20 violation of ER 8.4(b) relating to his misdemeanor conviction for willful failure  
21 to pay income tax.  
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23 b. In re Ronan, SB-97-0007-D (1997), was censured and placed on  
24 probation for his misdemeanor conviction for false statement relating to a  
25 misstatement on an unemployment claim.

1 c. In re Medansky, SB 04-0120-D (2004), in which the lawyer verbally  
2 threatened to physically harm the opposing party. The lawyer was suspended for  
3 30 days and placed on probation for violation of ER 8.4(d) and Rule 41(g),  
4 Ariz.R.S.Ct. There was no criminal conviction in that matter, and the lawyer had  
5 prior discipline for similar misconduct.  
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### 7 8 RECOMMENDATION

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10 The purpose of lawyer discipline is not to punish the lawyer, but to protect  
11 the public and deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 187, 859  
12 P.2d 1315, 1320 (1993). It is also the objective of lawyer discipline to protect the  
13 public, the profession and the administration of justice. *In re Neville*, 147 Ariz.  
14 106, 708 P.2d 1297 (1985). Yet another purpose is to instill public confidence in  
15 the bar's integrity. *Matter of Horwitz*, 180 Ariz. 20, 29, 881 P.2d 352, 361  
16 (1994).  
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19 In imposing discipline, it is appropriate to consider the facts of the case, the  
20 American Bar Association's *Standards for Imposing Lawyer Sanctions*  
21 ("*Standards*") and the proportionality of discipline imposed in analogous cases.  
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23 *Matter of Bowen*, 178 Ariz. 283, 286, 872 P.2d 1235, 1238 (1994).  
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1           Upon consideration of the facts, application of the *Standards*, including  
2 aggravating and mitigating factors, and a proportionality analysis, this Hearing  
3 Officer recommends the following:  
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6           1.   Respondent shall receive a censure;

7           2.   Respondent shall be placed on probation for a period of one year,  
8 under the following terms and conditions:  
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10           a.   Respondent shall contact the director of the State Bar's  
11 Member Assistance Program (MAP) within 30 days of the date of the final  
12 judgment and order. Respondent shall submit to a MAP assessment. The  
13 director of MAP shall develop a probation contract if he determines that the  
14 results of the assessment so indicate, and its terms shall be incorporated herein  
15 by reference. The probation period will begin to run at the time of the judgment  
16 and order, and will conclude one year from the date that all parties have signed  
17 the probation contract. Should the director of MAP conclude that no MAP  
18 probation terms are necessary, probation shall conclude one year from the entry  
19 of judgment and order.  
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22           b.   Respondent shall refrain from engaging in any conduct that  
23 would violate the Rules of Professional Conduct or other rules of the Supreme  
24 Court of Arizona.  
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1 Original filed with the Disciplinary Clerk  
2 this 23<sup>rd</sup> day of October, 2006.

3 Copy of the foregoing was mailed  
4 this 23<sup>rd</sup> day of October, 2006, to:

5 J. Scott Rhodes  
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19 by: Christina Jals  
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