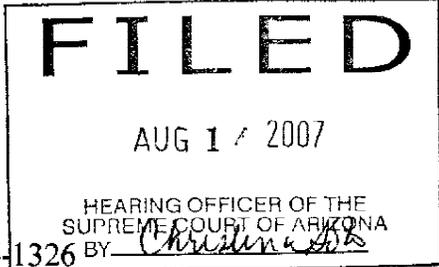


BEFORE A HEARING OFFICER  
OF THE SUPREME COURT OF ARIZONA



IN THE MATTER OF A MEMBER )  
OF THE STATE BAR OF ARIZONA, )  
)  
)  
**ARNOLD M. SODIKOFF,** )  
**Bar No. 001821,** )  
)  
Respondent )  
\_\_\_\_\_ )

File Nos 05-1451, 06-1326

**HEARING OFFICER'S REPORT**

**PROCEDURAL HISTORY**

The State Bar filed a complaint in this matter on December 28, 2006, including files 05-1451 and 06-1326. Respondent Sodikoff, representing himself, filed an answer on February 20, 2007. Thereafter, on March 13, 2007, the State Bar filed a Notice of Intent to use prior discipline, which included prior disciplinary actions against Respondent

An initial case management hearing was held on March 26, 2007, and after numerous pre-hearing motions a final hearing was held on May 15, 2007

At the final hearing the parties indicated a desire to work through the details and, with the assistance of this Hearing Officer, complete a settlement that they had previously been negotiating. As a result, the parties worked out an agreement and agreed to finalize the paperwork post hearing

Thereafter, on March 29, 2007, Attorney Nancy Greenlee made an appearance on behalf of Respondent. There was some question regarding whether the matter would go forward as a Tender of Admissions and Agreement for Discipline By Consent, or as a contested matter. A final hearing was set on July 16, 2007. (This Hearing Officer was not

available the month of June) The parties appeared on July 16, 2007, at the appointed time, ready to proceed with a Rule 56(b) hearing on the Tender of Admissions

### **FINDINGS OF FACT**

At all times relevant hereto, Respondent was a member of the State Bar of Arizona, having been admitted on September 25, 1965

#### **COUNT ONE (File No. 05-1451)**

This count arises out of a civil forcible entry and detainer action in the Superior Court of Yavapai County, Cause #02-310, Robishaw v Sunar, filed May 8, 2002 The Hearing Officer has reviewed the voluminous exhibits submitted by Bar Counsel, which make up the pleadings, transcripts, court orders and exhibits in the Robishaw v Sunar case These documents are marked as

*"In re Arnold M Sodikoff "*  
Index for Underlying Court Case  
Robishaw, et al. v Sunar, et al  
Case No CV2002-0310,  
Book One  
and  
Book Two

(Making up approximately 1,255 pages, Bates Stamped #000195-001450 )

The Hearing Officer has attached to this order, as exhibit "A", a listing of the pleadings filed by Respondent in the Robishaw v. Sunar matter and, as exhibit "B", a separate listing of the times the Court had to address the file either to set a hearing, rule on motions, or conduct a hearing It is hoped that this listing makes it easier for the Reviewing Body to not only see the extent to which Respondent's actions protracted the Robishaw v Sunar proceedings, but also give reference to specific matters This Hearing Officer has also reviewed the pleadings filed by both sides in this Disciplinary Action, and the testimony given at the hearing on May 15, 2007, and the hearing on the Consent and

Admission on July 16, 2007 The Hearing Officer finds by clear and convincing evidence the following:

1. In May of 2002, Troy and Karlyn Robishaw (the "Robishaws") retained counsel to represent them in a forcible detainer action against Ram and Dawn Sunar (the "Sunars")
2. The Robishaws were attempting to acquire physical possession of property that they purchased from Dawn Sunar pursuant to a Residential Resale Real Estate Contract (the "Contract") dated on or about March 20, 2002
3. The property in question served a dual purpose in that it had a residential and commercial function
4. Upon information and belief, the property was the sole and separate property of Dawn Sunar prior to the sale
5. The sale closed escrow on or about April 29, 2002, and Dawn Sunar conveyed all rights, title and interest in the property to the Robishaws
6. The Sunars retained Respondent Arnold M Sodikoff to represent them against the Robishaws in the forcible detainer matter
7. On or about May 6, 2002, and May 7, 2002, the Robishaws gave notice, pursuant to A.R.S. 12-1173 01(A), to the Sunars and Respondent demanding possession of the property. However, the Sunars failed to relinquish possession of the property to the Robishaws at that time
8. On May 6, 2002, prior to filing suit, the Robishaws presented two settlement proposals to Respondent ("Option 1" and "Option 2")

- 9 Option 1 required the Sunars to pay the Robishaws \$1,500 to lease the entire property until May 15, 2002
- 10 Option 2 required the Sunars to pay the Robishaws \$750 to lease the residential portion of the property until May 15, 2002 Following consultation with his clients, Respondent rejected both proposals
- 11 As a result, the Robishaws filed a forcible detainer action on behalf of the Robishaws against the Sunars in Yavapai County Superior Court on May 8, 2002, Cause No CV 2002-0310 Respondent contended that only Ram Sunar was served at that time
- 12 On May 13, 2002, Respondent filed an Answer in CV 2002-0310, on behalf of Ram Sunar, who Respondent contended was the only party who had been served, and Respondent asserted that Dawn Sunar had not been properly served with the Summons and Complaint
13. On May 13, 2002, in CV 2002-0310, Respondent filed a Notice of Change of Judge as a matter of right from Judge Janis Ann Sterling
14. On May 13, 2002, in CV 2002-0310, Respondent filed "Ram Sunar's Offer to Surrender Possession of the Subject Real Property, Motion to Continue Hearing If Plaintiffs Do Not Accept Offer "
- 15 In the pleading, Respondent offered the Robishaws sole possession of the property beginning on May 15, 2002 However, if the Robishaws refused to accept possession on that date, Respondent requested a continuance of the hearing to subpoena certain witnesses

16. On May 14, 2002, CV 2002-0310, the Court reassigned the matter to the Honorable Thomas B Lindberg
17. At a May 15, 2002 hearing in CV 2002-0310, Respondent asserted that his clients had vacated the premises as of that date and the Sunars tendered \$350 00 to the Robishaws for having remained in the property until May 15, 2002. The Robishaws requested a further hearing to seek a judgment for fair market rental value, any damages and attorney's fees incurred as a result of the Sunar's holdover
18. Throughout the May 15, 2002 hearing, Respondent referred to the Sunars as his "clients," "my client Dawn Sunar," and alternated between "client" and "clients."
19. CV 2002-0310 proceeded against Ram Sunar, although only Dawn Sunar owned the property. Respondent continued to assert that Ram Sunar was the only defendant who had been served at that time
20. Orders were made by the Court in CV 2002-0310 regarding future pleadings to be filed, reassigning the matter to Judge Raymond Weaver, Jr and allowing the Robishaws to take possession of the property from the Sunars, after the Sunars tendered possession of the property to the Robishaws on May 15, 2002
21. During the May 15, 2002 hearing, Respondent also agreed to resolve the matter through a single hearing to adjudicate the issue of damages for the Sunar's holdover. At the first trial setting, the Robishaws did not complete the presentation of their case before the time set aside for the trial expired. Therefore, a date was set for the continuation of the trial. Thereafter, CV 2002-

- 0310 required numerous hearings and pleadings and extended into TWO YEARS of litigation
- 22 On August 12, 2003, in CV 2002-0310, (15 months after the filing of the complaint) the Robishaws filed a motion for attorney fees against Respondent
- 23 On December 17, 2003, David L Lange, attorney for Respondent, filed a response to the Robishaws' motion for attorneys fees in CV 2002-0310, requesting an evidentiary hearing and raising the issue that certain factual assertions by the Robishaws were not based on affidavits or other sworn testimony
- 24 On December 18, 2003, the Court held oral argument in CV 2002-0310, on the numerous motions and responses that had been filed in the case
- 25 At a January 23, 2004 hearing in CV 2002-0310, Respondent requested that Judge Weaver recuse himself. Respondent based his request on the assertion that Judge Weaver knew the Robishaws' counsel's partner and had spent time with the Robishaws' counsel's partner and his wife. On February 18, 2004, Judge Weaver denied the recusal motion
- 26 On June 2, 2004, (two years after the filing of the complaint) after considering various motions of the parties and conducting "a complete file review," in CV 2002-0310, Judge Weaver made his findings and conclusions excerpted below
27. In his minute entry, dated June 2, 2004, Judge Weaver found that Respondent's Requested findings and conclusions were improper, unduly burdensome to the Court, many were not based on law or fact, many called for speculation by the Court and the requested findings and conclusions were indicative of [Respondent's] conduct throughout these proceedings

28 Judge Weaver further stated

Previously, the Court, in a minute entry, stated that it would not expend its resources in prepping what could be a multiple page minute entry setting forth what the Court considered to be an egregious example of [Respondent and the Sunars'] using every Court rule and procedure available for gamesmanship and a refusal to resolve a relatively simple case and turning it into what practically amounted to open warfare

29 Judge Weaver further stated

Throughout litigation, there has been a pattern of conduct by [the Sunars] and [Respondent] to abuse legal procedure, take inconsistent positions, refuse to accept reasonable settlement offers and fail to make reasonable efforts to expedite the litigation. It is this Court's opinion that [Respondent] was doing everything possible to force the Plaintiffs [the Robishaws] into taking actions which should not have been required. [Respondent] and [the Sunars] have abused legal procedures by either walking a fine line or going over the line to create as much expense and inconvenience to Plaintiffs as possible. Clearly, this Court cannot look into the mind of [Respondent]. However, this Court has no doubt that this case has been driven by [Respondent] who has made no good faith effort to resolve the case and sanctions are clearly appropriate as a result of [Respondent's] signing of pleadings and conducting himself in the manner referred to above.

The Court also finds that [Respondent] has defended against Plaintiffs' claims without substantial justification, has unreasonably expanded or delayed the proceedings and has filed motions and defended against Plaintiffs' claims solely or primarily for harassment.

30. Judge Weaver awarded the Robishaws \$5,000.00 in attorneys fees pursuant to

A.R.S. 12-349. The sanctions were awarded against Respondent and not against the Sunars.

31. If this matter were to proceed to a hearing, the Robishaws would testify that they incurred over \$20,000.00 in attorney fees, due to their having to respond to numerous non-meritorious motions filed by Respondent and the need for them to participate in a four day trial.

32 Respondent and the Robishaws ultimately entered into an agreement regarding the payment of the attorneys' fees, and CV 2002-0310 was dismissed with prejudice

**COUNT TWO (File No. 06-1326)**

The Hearing Officer reviewed the exhibits contained in State Bar Exhibits *In re Arnold M Sodikoff* File Nos 05-1451 and 06-1326 submitted by stipulation, specifically Tab 5, Bates Stamp #000145–000160, together with the statements made by Respondent in correspondence to the State Bar and his treating physicians (again submitted by stipulation) specifically Bates Stamp #000161-000194, and finds by clear and convincing evidence the following

- 1 On or about August 13, 2006, police officers (“the officers”) were dispatched to a Prescott Wal-Mart in regards to a theft in progress
- 2 The officers were advised that the subject was a white male, in his 60’s, wearing a white shirt and black pants
- 3 The officers were also advised that the subject was witnessed leaving the store without paying for food and drink.
- 4 The officers were told that the subject had departed the store and was leaving in a green car at the east part of the parking lot
- 5 Were this matter to proceed to hearing, the officers would testify that they stopped the vehicle directly in front of the store The driver of the vehicle was Respondent The officers observed Respondent trying to hide items in a suitcase on the passenger side of the vehicle

- 6 Respondent initially denied shoplifting and told the officers that he had a receipt for the items. The receipt that Respondent produced showed that the items had not been paid for. Respondent later admitted that he did not have receipts and had indeed shoplifted the items. The total value of the items was \$6.88. Respondent has no recollection at this time of his conversation with the officers.
- 7 Respondent was arrested for suspicion of shoplifting a pair of dress socks and a container of orange juice. Respondent was also cited for shoplifting and issued a trespass warning not to return to Wal-Mart.
- 8 On or about August 28, 2006, Marc E. Hammond ("Mr. Hammond") filed a Notice of Appearance and Plea of Not Guilty on behalf of Respondent.
- 9 On or about August 28, 2006, Mr. Hammond filed a Notice of Change of Judge on behalf of Respondent.
- 10 On or about October 6, 2006, Respondent signed a plea agreement, pleading guilty to A.R.S. 13-1805 shoplifting, a class one misdemeanor, and agreeing to ten sessions with Dr. Joseph Stewart, MSW, EdD.

### **CONDITIONAL ADMISSIONS**

Conditional on the acceptance of this agreement, the Respondent admits that his conduct as set forth above violated the following Rules of Professional Conduct.

1. Rule 42, Ariz. R. Sup. Ct., ER 1.3 by failing to provide reasonable diligence and promptness in representing his clients in the forcible detainer action, and by taking inconsistent positions regarding his clients.

2. Rule 42, Ariz.R Sup Ct., ER 3 1: by filing numerous non-meritorious motions in the forcible detainer action, by causing unreasonable delays in the litigation proceedings, and by defending a proceeding without a good faith basis.

3. Rule 42, Ariz R Sup Ct , ER 3 2 by failing to resolve a relatively simple case expediently, by using Court rules and procedures for gamesmanship, by turning the forcible detainer action into what basically amounted to open warfare, and by prolonging and causing unreasonable delays in litigation in what should have been a simple forcible detainer matter

4. Rule 42, Ariz R Sup Ct , ER 4 4 by using means that had no substantial purpose other than to delay or burden any other person, in this case, the Robishaws, filing numerous non-meritorious motions in the forcible detainer action, by failing to resolve a relatively simple case expediently, by using Court rules and procedures for gamesmanship, by turning the forcible detainer action into what basically amounted to open warfare, by forcing the plaintiffs to take actions that otherwise were not required, and by filing motions and defending against the plaintiffs' claims primarily to harass them

5. Rule 42, Ariz R Sup Ct , ER 8 4(b) by committing a criminal act (shoplifting) that reflects adversely on Respondent's honesty, trustworthiness and fitness as a lawyer in other respects

6 Rule 42, Ariz R Sup Ct , ER 8 4(c) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation when he lied to the police about the criminal act and tried to hide the stolen merchandise

7 Rule 42, Ariz R Sup.Ct., ER 8 4(d) by engaging in conduct that is prejudicial to the administration of justice

### **CONDITIONAL DISMISSAL**

Conditional on the acceptance of this agreement, the State Bar agrees to dismiss the following alleged violation based upon discussions at the hearing on May 15, 2007

#### **COUNT ONE (File No. 05-1451 Trespass)**

The second component of Count One alleged a violation of Rule 42, Ariz.R Sup Ct , ER 8 4(d), regarding Respondent's alleged trespass at a law office. Although the State Bar is prepared to go forward with evidence that Respondent unlawfully remained at the law offices of Musgrove, Drutz & Kack, the State Bar agrees to dismiss this violation. Respondent was found not guilty of trespassing and Respondent would present evidence substantiating his claim that he was lawfully on the premises. The State Bar recognizes that it likely would not be able to prove this alleged violation by clear and convincing evidence.

### **CONCLUSIONS OF LAW**

The Hearing Officer finds that there is clear and convincing evidence that Respondent violated Rule 42, Ariz R.Sup Ct , as follows:

#### **COUNT ONE (File No. 05-1451)**

ER 1 3 Diligence

ER 3 1 Meritorious claims and contentions

ER 3 2 Expediting litigation

ER 4 4 Respect for the rights of others

**COUNT TWO (File No. 06-1326)**

ER 8 4(b)(c) and (d) Misconduct

**ABA STANDARDS**

In determining the appropriate sanction, the Hearing Officer considered both the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("*Standards*") and Arizona case law. The *Standards* provide guidance with respect to an appropriate sanction in this matter. The Supreme Court and Disciplinary Commission consider the *Standards* a suitable guideline. See *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.2d 764, 770, 772 (2002); *In re Rivkind*, 164 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990). The *Standards* do not account for multiple charges of misconduct. The ultimate sanction imposed should be at least consistent with the sanction for the most serious instance of misconduct among a number of violations. *Standards*, p. 6, *In re Redeker*, 177 Ariz. 305, 868 P.2d 318 (1994).

In determining the appropriate sanction, the Supreme Court and the Disciplinary Commission consider the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. See *Peasley*, 208 Ariz. at 35, 90 P.2d at 772, *Standard 3.0*.

The Hearing Officer finds serious misconduct in this case in both Respondent's criminal act of shoplifting and Respondent's abuse of the legal system which occurred when he unreasonably delayed the litigation in the underlying court case, thereby causing

harm to the opposing parties. The Hearing Officers finds that *Standards* 5 1, Failure to maintain Personal Integrity, 6 2, Abuse of the Legal Process, and 8 0, Prior Discipline Orders, are the most appropriate *Standards* in this case.

*Standard 5 1*

Absent aggravating or mitigating circumstances, upon application of the factors set forth in *Standard* 3 0, the following sanctions are generally appropriate in cases involving commission of a criminal act that reflects adversely on the lawyers's honesty, trustworthiness, or fitness as a lawyer in other respects, or in cases with conduct involving dishonesty, fraud, deceit, or misrepresentation.

*Standard 5 12*

Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct, which does not contain the elements listed in *Standard* 5 11 and that seriously adversely reflects on the lawyer's fitness to practice.

*Standard 6 2*

Absent aggravating or mitigating circumstances, upon application of the factors set out in *Standard* 3 0, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

*Standard 6 22*

Suspension is appropriate when a lawyer knowingly violates a court order or rule, and there is injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

*Standard 8 0*

Absent aggravating or mitigating circumstances, upon application of the factors set out in *Standard* 3 0, the following sanctions are generally appropriate in cases involving prior discipline.

*Standard 8 2*

Suspension is generally appropriate when a lawyer has been reprimanded for the same or similar misconduct and engages in further acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.

Based upon the conditional admissions in this matter, the presumptive sanction with regard to the most serious admissions of misconduct under *Standards* 5.1, 6.2 and 8.0, is suspension.

**A. The duty violated**

Respondent pled guilty to shoplifting, a criminal act, which reflects adversely on his honesty, trustworthiness and fitness as a lawyer in other respects. During the course of his apprehension for shoplifting, Respondent engaged in conduct that involved dishonesty when he lied to the police officers about his actions.

The Hearing Officer finds that Respondent violated his duties to the opposing parties in *Robishaw v. Sunar* when he continued to file and pursue non-meritorious motions and defenses in the underlying court case. The Hearing Officer finds that Respondent's conduct violated his duty to his clients, to the opposing parties, to the profession and to the legal system.

**B. The lawyer's mental state**

The Hearing Officer finds that Respondent's conduct was done knowingly. Respondent would argue at a hearing that he was under an enormous amount of stress due to family related issues and regarding his own health problems. But the Hearing Officer does not find that that excuses his illegal conduct or his lack of honesty in dealing with the police. The parties submitted that Respondent's motivation in conducting the Sunars' defense in CV2002-0310 was not for any personal gain but, rather, to assist people that Respondent subjectively believed were being treated unfairly. The Hearing Officer finds that while it is hard to ascertain Respondent's intent, (he claims that his

representation of the Sunars was appropriate) the pleadings and other documents in the Robishaw v Sunar file indicated an abuse of process far beyond any obligation to fully and adequately represent one's client, such that ER 1.3, 3.1, and 3.2 were clearly violated. Given Respondent's previous disciplinary history, specifically his contentious interpersonal relationships with some opposing counsel and parties, his practice of filing frivolous documents, and admonishments to him for that behavior, he should have known his actions were suspect. The Hearing Officer finds that Respondent either inappropriately delayed these proceedings intentionally, or he has a significant impairment to his good judgment and knowing proper boundaries (of which he is aware and has previously been sanctioned for), either of which put him in violation of the rules.

**C. The extent of the actual or potential injury**

If this matter were to proceed to hearing, the State Bar would contend that Respondent's conduct in this matter caused actual harm to the opposing parties in that their legal remedy was delayed and they were forced to become liable for over \$20,000.00 in attorney fees. Respondent would argue at a hearing that he subjectively believed he was acting in the best interests of his clients and that he did not try to harm anyone. Respondent recognizes, however, and conditionally admits that viewed objectively the evidence is such that the State Bar would likely prevail on this issue were the matter to proceed to hearing.

**D. The aggravating and mitigating circumstances**

**Aggravating Circumstances**

The Hearing Officer finds that the following factors should be considered in

Aggravation (The facts set forth below are supported by the documents contained in the “Notice Of Intent To Use Prior Discipline” filed by the State Bar March 13, 2007, and this document is stipulated to by Counsel for both the State Bar and Respondent )

- Standard 9 22(a) – Prior Disciplinary Offenses (censure and 1 year probation 1996, 1 year suspension 1999, censure and probation 2001, 2 years probation 2001, 30 day suspension and 2 years probation 2006 The most recent suspension was due to respondent being held in direct and indirect criminal contempt ) (The Hearing Officer notes that the conduct set forth in the two counts of the complaint herein occurred while Respondent was on two-years probation ordered by the Commission on June 15, 2006 )

- Standard 9 22(b) – Dishonest or Selfish Motive (shoplifting for his own benefit), see State Bar exhibits, tab 5, starting at Bates Stamp #SBA000184-000194,

- Standard 9 22(c) – Pattern of Misconduct (prior criminal acts – shoplifting, criminal contempt, court case continued over a two year period with Respondent engaging in a pattern of continually delaying proceedings and/or pursuing non-meritorious claims and contentions),

- Standard 9.22(d) – Multiple Offenses (2 counts in this complaint with multiple charges),

- Standard 9 22(i) – Substantial Experience in the Practice of Law (Respondent was admitted to the Arizona Bar in 1965, he has been practicing law for 42 years), and

- Standard 9 22(k) – Illegal Conduct (shoplifting)

#### **Mitigating Circumstances**

The Hearing Officer finds that the following factors should be considered in mitigation

. Standard 9 23(c) – Personal or Emotional Problems (See tabs 8 and 10 of State Bar exhibits for the final hearing, records of Dr Joseph Steward, MSW, Ed D and Dr Kenneth Archer, M D , respectively.) The Hearing Officer reviewed Respondent’s medical records and, to the extent the Hearing Officer can read doctors’ notes, concludes that the Respondent suffers from various physical and emotional problems. These problems are more specifically set forth in the doctors’ notes and charts. Of note to the Hearing Officer was a statement by the Respondent to one of his doctors that he lacks “self-awareness” at times. A review of the exhibits in these matters, as well as previous matters before the State Bar, indicates that this lack of self-awareness contributes to Respondent’s lack of good judgment. He thus lets his good intentions get the better of him and exercises poor self-restraint.

. Standard 9 23(h) – Physical Disability (vision impairment and other physical illnesses) (Id ), and

. Standard 9 23(k) – Imposition of Other Penalties or Sanctions (Respondent was sanctioned \$5,000 00 by the Court)

### **PROPORTIONALITY REVIEW**

The Supreme Court has held in order to achieve proportionality when imposing discipline, the discipline in each situation must be tailored to the individual facts of the case in order to achieve the purposes of discipline. *In re Wines*, 135 Ariz 203, 660 P 2d 454 (1983) and *In re Wolfram*, 174 Ariz 49, 847 P 2d 94 (1993)

The parties have agreed and submit that the facts of this case, when compared to similar cases set forth below, support a six month and one day suspension. The Hearing Officer agrees.

In *In re Morgan*, SB-04-0140-D (2005), Morgan was found to be in violation of ERs 1.2, 1.3, 1.4, 1.7, 1.9(a), 1.15, 8.1, and 8.4(b) and Rules 43 and 44. Morgan received a six-month suspension, to be followed by two years of probation. Morgan pled no contest to shoplifting charges (shoplifted from a Wal-Mart in Flagstaff) and failed to represent various clients diligently and promptly. Five aggravating factors were found: prior disciplinary offenses, pattern of misconduct, submission of false evidence, false statements or other deceptive practices during the disciplinary process and substantial experience in the practice of law. There were seven mitigating factors found: personal or emotional problems, timely good faith effort to make restitution or to rectify consequences of misconduct, full and free disclosure to disciplinary board or cooperative attitude toward proceedings, character or reputation, delay in disciplinary proceedings, remorse and remoteness of prior offenses.

In *In re Hill*, SB-03-0158-D (2004), Hill was found to be in violation of ERs 1.2, 1.3, 1.4, 1.5, 1.7(b), 1.15, 1.16(d), 3.1, and Rules 51(a) and 57(a). Hill received a two-year suspension, to be followed by two years of probation. Hill filed a complaint in a shareholder lawsuit, which was ultimately dismissed by the Court. Hill admitted that some of the claims asserted in the shareholder action lacked a proper basis and that the claims were frivolous. In several matters, Hill lacked diligence and promptness in his representation of his clients. In a criminal matter, Hill pled no contest to the charge of Attempted Aggravated Assault. There were 3 aggravating factors found: pattern of

misconduct, multiple offenses and vulnerability of victim. There were 4 mitigating factors found absence of prior disciplinary record, personal or emotional problems, inexperience in the practice of law and imposition of other penalties or sanctions.

In *Matter of Savoy*, 181 Ariz 368, 891 P 2d 236 (1995), Savoy was found to be in violation of ERs 3 3(a), 8 4(b), (c) and (d) and Rule 51(a) Savoy received a two-year suspension. Savoy was convicted of one count of perjury, based on a statement he made while testifying before the Arizona State Grand Jury in October 1990 Savoy lied when he indicated to the Court that he did not have certain records, but upon the search of his law offices, pursuant to a search warrant, those records were found There were no aggravating factors found. Many mitigating factors were found which resulted in suspension, not disbarment

### RECOMMENDATION

The purpose of lawyer discipline is not to punish the lawyer, but to protect the public and deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 187, 859 P 2d 1315, 1320 (1993) It is also the objective of lawyer discipline to protect the public, the profession and the administration of justice *In re Neville*, 147 Ariz 106, 708, P 2d 1297 (1985) Yet another purpose is to instill public confidence in the bar's integrity. *Matter of Horwitz*, 180 Ariz 20, 29, 881 P 2d 352, 361 (1994)

In imposing discipline, it is appropriate to consider the facts of the case, the American Bar Association's *Standards for Imposing Lawyer Sanctions* ("Standards") and the proportionality of discipline imposed in analogous cases *Matter of Bowen*, 178 Ariz 283, 286, 872 P.2d 1235, 1238 (1994)

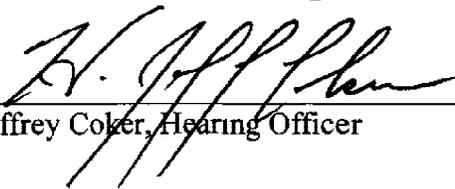
Upon consideration of the facts, application of the *Standards*, including aggravating and mitigation factors, and a proportionality analysis, this Hearing Officer recommends the following

Respondent shall be suspended for six months and one day beginning May 15, 2008. During the interim, Respondent shall accept no new cases or clients as of July 16, 2007, with the exception of those existing clients with whom Respondent has consulted regarding representation, although a formal representation agreement may not be finalized, and Respondent will close his law practice down no later than May 18, 2008.

Respondent will enter into a contract with LOMAP, which will monitor and assist Respondent in his efforts to wind-down and ultimately close his practice. Included in the LOMAP contract will be a provision that any violation of the terms of this agreement, if proven by the State Bar pursuant to Rule 60(a)(5)(C), Ariz. R. Sup. Ct., will warrant immediate discipline. Respondent also agrees to engage a practice monitor, selected in collaboration with LOMAP, to assist in and supervise the closure of his practice.

It would further be the recommendation of the Hearing Officer that, given Mr. Sodikoff's repeated problems dealing with litigants and opposing counsel and sanctions by the State Bar, any request by Mr. Sodikoff to be reinstated to the practice of law not be considered without a complete evaluation of the emotional issues addressed herein, and confirmation that those issues have been resolved. In addition, Respondent shall pay the costs and expenses incurred in this disciplinary proceeding.

DATED this 8 day of August, 2007

  
\_\_\_\_\_  
H Jeffrey Coker, Hearing Officer

Original filed with the Disciplinary Clerk  
this 14<sup>th</sup> day of August, 2007

Copy of the foregoing mailed  
this 14<sup>th</sup> day of August, 2007, to

Nancy A. Greenlee  
Respondent's Counsel  
821 East Fern Drive North  
Phoenix, AZ 85014-3248

David L. Sandweiss  
Bar Counsel  
State Bar of Arizona  
4201 North 24<sup>th</sup> Street, Suite 200  
Phoenix, AZ 85016-6288

by: Christina A. [Signature]

## Exhibit 1 To Hearing Officer Report

Summary of pleadings/documents filed by Respondent  
on behalf of the Defendants' and himself in  
Robishaw v Sunar

<u>TAB</u>	<u>DATE</u>	<u>DOCUMENT</u>
1	05-08-02	Complaint filed
2	05-09-02	Served Ram Sunar
7	05-13-02	Defendants' Answer filed
9	05-13-02	Ram Sunar Motion to Strike
15	05-15-02	Surrender of Possession
16	05-16-02	Notice of Service of Discovery
19	05-24-02	Defendants' Motion to Dismiss Complaint
21	06-05-02	Defendants' Motion for Conditional Disqualification of Opposing Counsel
24	06-11-02	Defendants' Motion to Correct Record
26	06-13-02	Defendants' Request for ADR
29	06-14-02	Defendants' Objection to Plaintiffs' Request for Hearing
30	06-14-02	Defendants' 2 <sup>nd</sup> Motion to Dismiss Complaint
38	06-27-02	Defendants' Request for Evidentiary Hearing
43	06-24-02	Joint Stipulation by both attorneys to Withdraw All Motions and Accusation of Unethical Conduct Against Counsel of Record
48	11-04-02	Defendants' Motion to Dismiss
49	11-04-02	Defendants' Notice of Change of Judge
52	11-12-02	Defendants' Request for Findings of Fact and Conclusions of Law
59	11-29-02	Defendants' Motion to Reconsider Denial of Notice of Change of Judge
64	12-31-02	Defendants' Motion to Dismiss Complaint
72	03-04-03	Defendants' Motion for Involuntary Dismissal
73	03-10-03	Defendants' Request for Summary Determination
80	05-05-03	Defendants' Motion in Limine
81	05-06-03	Defendants' Objection to Untimely Discovery and Motion For Protective Order
89	05-16-03	Defendants' Motion to Continue Trial
91	05-19-03	Defendants' Motion to Submit Late Testimony
94	05-20-03	Defendants' Motion to Continue
106	08-14-03	Defendants' Motion for Supplemental Findings of Fact and Conclusions of Law
107	08-29-03	Defendants' Motion for Enlargement
110	10-02-03	Defendants' 2 <sup>nd</sup> Motion for Enlargement

Page 2  
 Exhibit 1  
 Hearing Officer Report  
 Re Arnold M Sodikoff

111	10-08-03	Defendants' Response to Plaintiffs' Application for Attorney Fees and Request for Evidentiary Hearing
113	10-08-03	Defendants' Request for Evidentiary Hearing on Plaintiffs' Appeal for Attorney Fees

END OF BOOK 1

118	11-12-03	Defendants' Motion to Reset Hearing
122	12-17-03	Notice of Special Appearance by Attorney David Lange (hereafter Sodikoff 's attorney) on behalf of Arnold Sodikoff
121	12-17-03	Sodikoff's Attorney's Supplemental Response to Motion for Attorney Fees
125	01-05-04	Defendants' Application for Attorney Fees
129	01-16-04	Affidavit of Attorney Sodikoff in Response to Plaintiff's Identification of Activities Deemed Improper
130	01-16-04	Response of Sodikoff's Attorney Re Activities Deemed Improper

(Note Tab 130 [SBA 001010 – 001015] and Tab 132 [SBA 001017 – 001021] appear to be duplicate documents)

136	01-23-04	Defendants' Request That Court Take Judicial Notice Number of Pleadings
137	01-23-04	Defendants' Request That Court Take Judicial Notice Number of Pleadings of Cause #DO82003-0174 (sic)
141	01-26-04	Statement and Position of Sodikoff's Counsel
144	01-28-04	Defendants' Motion for New Trial (Denial of Jury)
145	01-29-04	Defendants' Supplement to Motion for New Trial
154	02-10-04	Defendants' Motion to Withdraw Appeal for Attorney Fees
150	03-??-04	(Date not legible) Defendants' Request for Expedited Order Permitting Review of Transcript
157	03-03-04	Defendants' Motion for Enlargement of Time to Reply to Response Re Motion for New Trial
158	03-08-04	Defendants' Supplement to Motion for New Trial

Page 3  
Exhibit 1  
Hearing Officer Report  
Re Arnold M. Sodikoff

159	03-09-04	Defendants' Request for Reconsideration of Court's Refusal to Recuse Itself
161	03-24-04	Defendants' Motion to Strike Request for Attorney Fees
162	03-24-04	Defendants' Motion for Reconsideration Re Damages
164	03-29-04	Defendants' Request for Findings of Fact and Conclusions of Law
171	04-30-04	Defendants' Motion for Enlargement of Time
172	05-11-04	Defendants' Reply to Response Re Motion to Dismiss
173	05-11-04	Defendants' Reply to Response Re Motion for Reconsideration
174	05-11-04	Defendants' Response to Plaintiff's Objection to Findings of Fact and Conclusions of Law
178	06-12-04	Notice of Change of Judge (Newly Assigned)
181	10-01-04	Sodikoff Status Conference Memorandum (Ordered by Judge)
182	10-01-04	Defendants' Status Conference Memorandum (Ordered by Judge)
183	10-01-04	Defendants' Motion to Reconsider
185	10-02-04	Defendants' Amended Motion to Reconsider

## Exhibit 2 to Hearing Officer Report

### Summary of Court Contact/Hearings/Actions in File Robishaw v Sunar

<u>TAB</u>	<u>DATE</u>	<u>ACTION</u>
14	05-15-02	Hearing on Forcible Entry and Detainer (FED)
37	06-27-02	Court Order Setting Hearing on Motions
42	07-19-02	Oral Argument (O/A) on Motions – Ruling on some motions
44	09-18-02	Ruling on Under Advisement (U/A) Matter
51	11-12-02	Hearing on Damages
60	11-27-02	Court Ruling on Notice of Change of Judge
61	12-03-02	O/A on Motions
63	12-23-02	Court Ruling on U/A
71	02-26-03	Order Setting O/A on Defendants' Motion to Dismiss
77	03-24-03	Hearing on Motion to Dismiss
83	05-14-03	Ruling on Motions
90	05-16-03	Evidentiary Hearing
92	05-19-03	Ruling on Motion to Dismiss 3 <sup>rd</sup> Party Complaint
93	05-19-03	Evidentiary Hearing
95	05-22-03	Ruling on Motion to Continue
97	05-28-03	Evidentiary Hearing Continued
98	07-28-03	Ruling as to all issues by Judge Weaver
109	09-26-03	Ruling on Defendants' Motions
End of Book 1		
117	10-27-03	Court Ruling on Motion Setting O/A on others
119	11-12-03	Court Ruling on Motion to Reset
123	12-18-03	Hearing on Appeal for Attorney Fees
140	01-23-04	Evidentiary Hearing
147	02-19-04	Ruling on Motion
151	03-02-04	Court Ruling on Defendants' Request to Review Transcript
153	03-09-04	Status Conference Before the Court, Ruling on Various Matters
163	03-26-04	Court Sets Time Limits to Respond to Defendants' Request for Recusal
176	06-03-04	Curt Ruling on Pending Motions
179	07-27-04	Court Ruling on Notice of Change of Judge
180	09-15-04	Newly Assigned Judge Initial Order on Pending Matters
186	10-18-04	Court Denial of Defendants' Motion