

SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF THE STATE BAR OF ARIZONA,)	Supreme Court No. SB-07-0197-D
)	
)	Disciplinary Commission
)	Nos. 04-1903, 05-0196
ANDREW D. DIODATI, Bar No. 014394)	06-2044
)	
RESPONDENT.)	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, there having been no discretionary review and *sua sponte* review having been declined by the Court,

IT IS ORDERED, ADJUDGED AND DECREED that **ANDREW D. DIODATI**, a member of the State Bar of Arizona, is hereby suspended from the practice of law for a period of sixty 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 **ANDREW D. DIODATI** shall be placed on probation for a period of one year, upon reinstatement. Bar Counsel shall notify the Disciplinary Clerk of the date on which the probation begins. The terms of probation are as follows:

- 1) The period of probation shall begin upon the issuance of the Supreme Court’s Order granting reinstatement, and shall continue for one year from the date Respondent signs the probation contracts for the Member Assistance Program (“MAP”) and Trust Account Program (“TAP”), whichever date is later.
- 2) Within thirty days of the Supreme Court’s Order granting reinstatement, Respondent will contact the director of the State Bar’s Member Assistance Program (MAP). A probation contract shall be drafted by the director of MAP, in consultation with the Medical Director of MAP, that will include all applicable terms and reporting requirements. Respondent will participate in MAP for the entire period of probation and will sign and return the probation contract to MAP within ten days of the date it was mailed to Respondent.

- 3) Within thirty days of the Supreme Court's Order granting reinstatement, Respondent will contact the State Bar's Staff Bar Examiner to begin participation in the State Bar's Trust Account Program (TAP). Respondent shall sign a Probation Contract that shall include all applicable terms of participation including reporting requirements. Respondent shall participate in TAP for the entire period of probation. The probation contract shall be signed by Respondent and returned to the Staff Examiner within ten days of the date it was mailed to Respondent
- 4) Within thirty days of the date of the Supreme Court's Order granting reinstatement, Respondent will contact the Lawyer's Assistance Program director and schedule a Law Office Management Assistance Program ("LOMAP") audit, particularly focusing on, but not limited to workload, calendaring and workflow. The audit is primarily intended to assure that there are no additional improvements needed in Respondent's office management still required after the completion of Respondent's current LOMAP contract. If LOMAP recommends changes, Respondent shall implement those changes and provide evidence of the implementation to LOMAP. LOMAP may further verify changes by conducting an onsite visit.
- 5) The terms of probation may be renewed for an additional two years, pursuant to Rule 60(a)(5), Ariz.R.Sup.Ct.
- 6) Respondent shall follow all Professional Rules of Conduct and Trust Account Guidelines.
- 7) Respondent shall pay all costs incurred in these disciplinary proceedings including those incurred by MAP and TAP and the Disciplinary Clerk.
- 8) 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.Sup.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 fulfill terms of probation as ordered in File No. 04-1676 and provide evidence of compliance to the State Bar.

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 **ANDREW D. DIODATI** for costs and expenses of these proceedings in the amount of \$2,602.34, together with interest at the legal rate from the date of this judgment.

DATED this _____ day of _____, 2008.

RACHELLE M. RESNICK
Clerk of the Court

TO:

Andrew D. Diodati, Respondent (Certified Mail, Return Receipt and Regular Mail)
Joseph P. St. Louis, Respondent's Counsel
Roberta L. Tepper, Bar Counsel
Douglas H. Clark, Jr., Hearing Officer
Nancy Swetnam, Acting Disciplinary Clerk (Cert. Copy)
Sandra Montoya, Lawyer Regulation Records Manager, State Bar of Arizona (Cert. Copy)
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)
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