

**FILED**

OCT 27 2004

**BEFORE THE DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ARIZONA**  
DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ARIZONA BY *[Signature]*

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IN THE MATTER OF A MEMBER	)	Nos. 02-0281, 02-0703, 02-1170,
OF THE STATE BAR OF ARIZONA,	)	02-1294, 02-1324, 02-1623
	)	
<b>MICHAEL L. GERTELL,</b>	)	
<b>Bar No. 009458</b>	)	
	)	
	)	<b>DISCIPLINARY COMMISSION</b>
RESPONDENT.	)	<b>REPORT</b>
	)	

This matter came before the Disciplinary Commission of the Supreme Court of Arizona on October 16, 2004, pursuant to Rule 58(e), Ariz. R. S. Ct., for consideration of the Hearing Officer's Report filed June 2, 2004, recommending acceptance of the Tender of Admissions and Agreement for Discipline by Consent (Agreement) and Joint Memorandum in Support of Agreement for Discipline by Consent (Joint Memorandum) providing for a ninety day suspension, two years of probation with the State Bar's Law Office Management Assistance Program (LOMAP) including a practice monitor, and costs of these disciplinary proceedings.

**Decision**

The Commission's standard of review is set forth in Rule 58(b), which states that the Commission reviews questions of law *de novo*. In reviewing findings of fact made by a hearing officer, the Commission applies a clearly erroneous standard. Mixed findings of fact and law are also reviewed *de novo*. *State v Blackmore*, 186 Ariz. 630, 925 P.2d 1347 (1996) citing *State v. Winegar*, 147 Ariz. 440, 711 P.2d 579 (1985).

Therefore, having found no findings of fact clearly erroneous, the nine members of the Commission unanimously recommend adopting and incorporating by reference the

Hearing Officer's findings of fact, conclusions of law, and recommendation for a ninety day suspension, two years of probation (LOMAP with PM), and costs.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of October, 2004.



Craig B. Mehrens, Chair  
Disciplinary Commission

Original filed with the Disciplinary Clerk  
this 27<sup>th</sup> day of October, 2004.

Copy of the foregoing mailed  
this 27<sup>th</sup> day of October, 2004, to:

Robert J. Stephan, Jr.  
Hearing Officer 9R  
371 East Monte Vista Road  
Phoenix, AZ 85004-1438

Michael L. Gertell  
Respondent  
P.O. Box 33021  
Phoenix, AZ 85067-3021

John A. Furlong  
Bar Counsel  
State Bar of Arizona  
111 West Monroe, Suite 1800  
Phoenix, AZ 85003-1742

by: K. Weigand

/mps