

BEFORE A HEARING OFFICER
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

Nos. 02-0743, 02-0888
02-0909, 02-2300

EDMUND D. KAHN,
Bar No. 002152

HEARING OFFICER'S REPORT
AND RECOMMENDATION

RESPONDENT.

PROCEDURAL HISTORY

Heretofore, on October 19, 2001, by Order of Suspension issued by the State Bar of Arizona, Respondent was suspended from the practice of law for non-payment of State Bar dues.

By Probable Cause Order *Nunc Pro Tunc* dated December 19, 2003, a probable cause panelist of the State Bar found, pursuant to Rule 53(b), Ariz. R. S. Ct., that probable cause existed to issue a complaint against Respondent for violations of Rule 42, Ariz. R. S. Ct., including but not limited to ERs 5.5, 8.4(c) and (d), and Rules 31(a) and 51(e). The Probable Cause Order dated *nunc pro tunc* to September 18, 2003.

A Complaint was filed by the State Bar on January 5, 2004, pursuant to said Probable Cause Order; Respondent filed his Answer on January 21, 2004.

A change of hearing officer having been requested, the matter was assigned to the above entitled and undersigned Hearing Officer for all further proceedings.

A combined evidentiary hearing was held on April 30, 2004, at which time all evidence was stipulated into the record by the parties.

At that same hearing, by stipulation of the parties, the question of appropriate sanctions under existing law was also argued and discussed, which said decision also included an aggravation/mitigation analysis.

Following simultaneous memoranda submitted by the parties, along with proposed Findings

1 of Fact and Conclusions of Law, the matter was deemed submitted at issue.

2 **Findings of Fact**

- 3 1. By letter dated April 2, 2001, the State Bar of Arizona advised Respondent that his
4 license to practice law would be summarily suspended for failure to pay mandatory
5 membership dues unless Respondent paid said dues on or before April 16, 2001.
- 6 2. Respondent requested and was granted a hearing before the Board of Governors
7 to show good cause why his license should not be suspended. Respondent's oral
8 argument before the Board of Governors occurred on September 21, 2001.
- 9 3. By Order dated October 3, 2001, the Board of Governors informed Respondent
10 that upon consideration of his written submission and oral argument, the vote of
11 the Board of Governors was that Respondent did not demonstrate good cause why
12 he should not be suspended for failure to pay membership fees. The Board of
13 Governors ordered Respondent to pay his delinquent 2001 membership fees within
14 ten days of the service of the October 3 Order or face summary suspension on
15 October 19. Respondent did not pay his delinquent 2001 membership fees as
16 ordered and his license to practice law was suspended as of October 19, 2001.
- 17 4. On October 22, 2001, Respondent filed an opening brief in the Arizona Court of
18 Appeals in the matter of *City of Tucson v. Willie Caesar Bean* (CA-CV 2001-
19 0169). This action became a basis for State Bar File # 02-0909.
- 20 5. By letter dated October 26, 2001, the State Bar of Arizona informed Respondent
21 that the Scope and Operations Committee of the State Bar Board of Governors
22 had approved Respondent's summary suspension.
- 23 6. On November 13, 2001, Respondent filed a petition for review of his suspension
24 and a Petition for Stay of the suspension with the Arizona Supreme Court.
- 25 7. On December 17, 2001, Respondent filed a reply brief with the Arizona Court of
26 Appeals in the matter of *City of Tucson v. Willie Caesar Bean* (CA-CV 2001-
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- 0169). This action became a basis for State Bar File #02-0909.
8. By Order dated January 11, 2002, the Supreme Court of Arizona denied Respondent's Petition for Stay of Suspension.
9. By letter dated March 21, 2002, the Supreme Court denied Respondent's Petition for Review.
10. On March 28, 2002, Respondent filed a complaint against the State Bar of Arizona in the United States District Court for the District of Arizona (CIV-02-164-TUC).
11. On April 8, 2002, Respondent filed a Complaint in the Pima County Superior Court in *Kahn v. Grijalva* (C20021729). This action became a basis for State Bar File #02-0888.
12. On April 17, 2002, Respondent filed a Complaint in Pima County Superior Court *Kromko v. City of Tucson* (C20021902). This action became a basis for State Bar File #02-0743.
13. On April 22, 2002, the State Bar of Arizona sent a letter to Respondent advising that information concerning Respondent's professional conduct had come to its attention, and requesting that Respondent provide a written response withing 20 days (State Bar File # 02-0743).
14. On April 23, 2002, Respondent sent a letter to the State Bar indicating a willingness to pay 2001 and 2002 dues provided that the amount be placed in a separate escrow account pending the outcome of the pending litigation in United States District Court (CIV-02-164-TUC). Respondent also indicated "I will expect you to reinstate my membership upon payment of said sum and establishment of said escrow account."
15. On April 23, 2002, Respondent appeared before the Hon. Ted Borek in Pima County Superior Court to argue his client's motion for a preliminary injunction in the matt3er of *Kromko v. City of Tucson* (C20021902). This action became a basis

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- for State Bar File # 02-0743.
16. On May 6, 2002, Respondent filed a complaint in the Federal District Court of Arizona in the matter of *Debra Sue Callies v. United States* (CIV 00-0708-PHX). This action became the basis for State Bar File # 02-2300.
17. On May 6, 2002, Respondent filed an answering brief and cross appeal with the Arizona Court of Appeals in the matter of *Kromko v. City of Tucson* (CA-CV2002-00643) This action became a basis for State Bar File #02-0909.
18. By Order dated May 7, 2002, the Arizona Court of Appeals delayed oral argument in *Kromko v. City of Tucson* (CA-CV 2002-0064) after receiving notice from the State Bar that Respondent's license was previously suspended. The Court of Appeals ordered that substitution of counsel or other suitable arrangements occur on or before May 8 at 9:00 a.m.
19. By Order dated May 8, 2002, the Arizona Court of Appeals threatened dismissal of the appeal in *City of Tucson v. Bean* (CA-CV 2001-0169) after learning that Respondent's license to practice had been suspended effective October 19, 2001. The Court of Appeals ordered that substitution of counsel or other suitable arrangements occur before 5:00 p.m. on May 13, 2002.
20. By letter dated May 10, 2002, attorney M. Sneberger (State Bar's counsel in the litigation filed by Respondent on May 28, 2002 in the United States District Court for the District of Arizona *(CIV-02-164-TUC), sent a letter to Respondent reiterating that Respondent must pay past and present membership fees, a total of \$1045, in order to be reinstated. Mr. Sneberger also indicated that Respondent's fees could be segregated in a separate escrow account.
21. By handwritten note dated May 11, 2002, Respondent indicated that he would pay his past and present dues if his dues were placed in an escrow account pending the outcome of the federal litigation and that his license reinstatement be retroactive

- 1 to the October, 2001, date of suspension.
- 2 22. By letter dated May 17, 2002, Mr. Sneberger sent a letter to Respondent indicating
3 that Respondent's payment would result in a reinstatement as of the date of
4 payment and would not be retroactive to the date of suspension.
- 5 23. By letter dated May 21, 2002, the State Bar of Arizona informed Respondent that
6 information concerning his professional conduct had come to its attention (State
7 Bar File #02-0888). The State Bar informed Respondent that he had twenty days
8 to respond.
- 9 24. By letter dated May 24, 2002, State Bar of Arizona informed Respondent that
10 information concerning his professional conduct had come to its attention (State
11 Bar File # 02-0909). The State Bar informed Respondent that he had twenty days
12 to respond.
- 13 25. By letters dated June 4, 2002, Respondent sent the State Bar of Arizona a written
14 response regarding State Bar File #s 02-0743, 02-0888 and 02-0909.
- 15 26. One June 4, Respondent sent a letter to attorney M. Sneberger stating that he
16 accepted Mr. Sneberger's offer of May 10 and agreed to pay the amount of \$1045
17 on condition that 1) the dues would be placed in a separate escrow account, 2) that
18 the payment/reinstatement have no effect on the pending federal litigation, and 3)
19 that the reinstatement be retroactive to January 1, 2002. Respondent included a
20 check in the amount of \$1045 in the correspondence.
- 21 27. On June 12, 2002, Respondent filed a disclosure statement in *Kahn v. Grijalva*
22 (C20021729). This action became a basis for State Bar File #02-0888.
- 23 28. By letter dated July 1, 2002, the State Bar of Arizona sent a letter to Respondent
24 that "[o]n behalf of the Board of Governors, we are pleased to notify you that
25 effective June 25, 2002, you have been reinstated to practice."
- 26 29. Respondent's license was suspended from October 19, 2001 to June 25, 2002.
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30. Respondent repeatedly practiced law in Arizona Courts during his period of suspension, as outlined in the State Bar's Complaint, filed January 5, 2004.

31. By letter dated December 6, 2002, the State Bar of Arizona informed Respondent that information concerning his professional conduct had come to its attention (State Bar File #02-2300). The State Bar informed Respondent that he had twenty days to respond. Respondent sent a copy of his letter dated June 4, 2002, regarding State Bar File #s 02-0743, 02-0888 and 02-0909 as his response to State Bar File #02-02300.

32. By Order dated May 20, 2003, the United States District Court granted the State Bar's motion for summary judgment and dismissed Respondent's case (CIV-02-164-TUC).

CONCLUSIONS OF LAW

1. Respondent was not authorized to practice law in Arizona Courts from October 19, 2001 to June 25, 2002.
2. By practicing law with a suspended license between October 19, 2001 and June 25, 2002, Respondent violated ER 5.5(a), Rule 42, Arizona Rules of the Supreme Court.
3. By practicing law with a suspended license between October 19, 2001 and June 25, 2002, Respondent violated ER 8.4(c), Rule 42, Arizona Rules of the Supreme Court.
4. By practicing law with a suspended license between October 19, 2001, and June 25, 2002, Respondent violated Rule 51(e), Arizona Rules of the Supreme Court.
5. By practicing law with a suspended license between October 19, 2001 and June 25, 2002, Respondent engaged in conduct prejudicial to the administration of justice. Respondent violated ER 8.4(d), Rule 42, Arizona Rules of the Supreme Court.

1 **Discussion**

2 It should be noted that, in reaching the aforesated Findings of Fact and Conclusions of
3 Law, the undersigned has considered simultaneous memoranda of both parties, and has given great
4 weight to the proposed Findings of Fact and Conclusions of Law submitted by bar counsel as being
5 more rigorous and accurate.

6 Regarding conclusions of law, the undersigned finds that there is clear and convincing
7 evidence that Respondent violated Rule 42, Ariz. R. S. Ct., specifically by practicing law while
8 suspended. Respondent admits to having done this, and submits several legal arguments in
9 justification or excuse.

10 Additionally, he presents procedural justifications, i.e. that his law practice for two of the
11 counts was done prior to reinstatement, but while a petition for review was pending, and he was
12 not technically suspended during that period of time.

13 Other arguments that would sound more in mitigation will be dealt with later herein.

14 Respondent, in response to questioning from the Hearing Officer, admitted that he never
15 informed any judge, or opposing counsel, while appearing before a tribunal in session, of his legal
16 status in any way.

17 See Transcript of Proceedings April 30, 2004; page 23, (3 - 15). Respondent's arguments
18 are summarizable as defenses in the following manner:

- 19 1. Right to work provisions of the Arizona Constitution prevent his suspension for non-
20 payment of dues.
- 21 2. Due process rights under both the State and Federal Constitutions require hearings before
22 taking any punitive action; or, in the alternative, a suit for debt must be initiated, rather
23 than the summary suspension procedure required in the State of Arizona.
- 24 3. When challenging the validity of a particular law - in this case, the power of the Supreme
25 Court to regulate the practice of law in the fashion and manner that it does - a lawyer is
26 protected from discipline due to his lack of willful or malicious conduct; and, finally,
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1 4. No prejudice to the administration of justice has occurred herein, citing Rule 8.4, and the
2 comments under paragraphs (c) and (d), because a lawyer is personally answerable for
3 criminal acts, but only professionally responsible for non-criminal acts; and, somehow, that
4 this rationale applies to challenges of illegal regulation of the practice of law.

5 It must be said that the undersigned does not find any of these defenses to be mitigative or
6 dispositive, in similar regard to the various courts and decisional authorities who have already
7 heard them.

8 In the four counts consolidated in the complaint herein, two apply to the unauthorized
9 practice of law on behalf of Mr. Kromko. The third count concerns Mr. Bean, and was undertaken
10 prior to reinstatement, but while a petition for review was pending and suspension had not been
11 accomplished. The fourth count, however, concerns a representation of Callies. Respondent does
12 not deny this, and refers to it on the record in his later argument on T.R. about page 38, lines 3 -
13 11.

14 During the relevant periods of time herein, Respondent continued to practice law as afore
15 stated herein; and, even went so far as to try to institute federal proceedings which were summarily
16 dismissed as well. In the meantime, the Court of Appeals of the State of Arizona, Division Two,
17 issued an order, in the Bean case, to the effect that, Respondent not being authorized to practice
18 law in the State of Arizona at the time the Opening and Reply briefs were filed; and, continuing
19 to be unauthorized, a substitution of counsel had to be filed in the matter, or other arrangement
20 acceptable to the court shall be made regarding the continued representation of Bean, or the briefs
21 would be stricken and the appeal would be dismissed.

22 The aforesaid order is dated May 8, 2002, signed by Presiding Judge Howard, and
23 unanimously concurred in by Judges Espinosa and Druke.

24 Here is a clear and undeniable case of actual exposure of harm to a member of the public
25 in litigation directly related to the Respondent's unauthorized practice of law.

26 The Respondent has made much of the fact that he offered to pay his dues under conditions
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1 that would conform with his political conscience; and, in fact, ultimately did pay his back dues.
2 It is also true that the Respondent always had the wherewithal to pay the dues, and informed all
3 parties concerned, whether they wished to hear it or not, that it was only his intention to challenge
4 an unjust law that caused him to behave in the manner that he did.

5 In any event, the Respondent was restored to active standing on June 25, 2002. These
6 matters then proceeded through their various stages of litigation until, finally, a summary judgment
7 was granted by the Federal District Court in and for the District of Arizona, the Honorable Raner
8 C. Collins rendering the written decision. Judge Collins' well reasoned and thorough decision is
9 recommended for incorporation in this decision, as it involves a careful legal analysis of the cases
10 urged by the Respondent in furtherance of his claims - particularly with reference to the case of
11 *Keller v. State Bar of California* 496 U.S. 4 (1990).

12 Therein, on page 8 of his opinion, and proceeding thereafter, Judge Collins makes clear that
13 the State Bar has adopted bylaws which prohibit it from using membership dues to fund activities
14 of a political or ideological nature not reasonably related to regulation of attorneys, and the other
15 *Keller* prohibitions. Concluding that the *Keller* court only required a consideration for the State
16 Bar to have in place constitutionally appropriate procedures for members to challenge expenditures
17 of mandatory dues, which this bar does have in place, the Respondent's argument was without
18 merit. The remainder of the Decision distinguished Respondent's arguments, and finds the State
19 Bar in substantial compliance with *Keller*.

20 Having exhausted all legal remedies that he wished to, the Respondent finally comes to this
21 proceeding admitting his actions, arguing for their justifiability, and, once again, urging some of
22 the arguments referred to earlier, and urged upon other courts previously.

23 ABA STANDARDS

24 ABA *Standard* 3.0 provides that four criteria should be considered: (1) the duty violated;
25 (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct;
26 and (4) the existence of aggravating and/or mitigating factors.

1 In determining this sanction, the ABA standards have been used as a suitable guideline.
2 *In re Kaplan*, 179 Arizona 175, 877 P2d 274 (1994). For the unauthorized practice of law, the
3 presumptive sanction for the most serious conduct herein, is suspension. A review of Standard
4 7.0 (Violations of Duties Owed to the Profession) indicates that suspension is in fact the
5 presumptive sanction for Respondent's misconduct. Standard 7.2 specifically provides:

6 "Suspension is generally appropriate when a lawyer knowingly engages in
7 conduct that is a violation of a duty owed to the profession, and causes injury or
8 potential injury to a client, the public, or the legal system."

8 Respondent's actions clearly fit into this paragraph. Respondent has offered no evidence that he
9 advised his clients of his suspension, he failed to withdraw until ordered to do so by a Court of
10 Appeal under pain of dismissal of his clients' appeal; and, finally, has admitted that he failed to
11 advise the courts below, on several occasions, when appearing before them, that he was
12 suspended.

13 This Hearing Officer then considered aggravating and mitigating factors in this case,
14 pursuant to *Standards* 9.22 and 9.32, respectively. Three factors are present in aggravation: 9.22
15 (c) a pattern of misconduct; 9.22(g) refusal to acknowledge wrongful nature of conduct; and (i)
16 substantial experience in the practice of law. There are two factors present in mitigation: 9.32(a)
17 absence of a prior disciplinary record¹ and 9.32(e) full and free disclosure to disciplinary board.

18 In recommending disciplinary sanctions, the Hearing Officer gave great weight to the afore
19 recited mitigating factors. Furthermore, although it is specifically found that Respondent acted in
20 good faith and without specific intent, it is also found that Respondent knowingly and intentionally
21 violated the enumerated rules and provisions of the Disciplinary Code.

22 Respondent agreed to have aggravation/mitigation and proportionality analyses argued as
23 part of the hearing in this matter, partly to expedite what is anticipated to be a future series of
24 appeals which require a decision to be made by the Disciplinary Commission in order to initiate.
25 In context, the Respondent, in the materials provided in evidence, has written a letter declaring his

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27 ¹Respondent has practiced law for more than 30 years.

1 intention "...in the tradition of civil disobedience espoused by the Saintly Dr. Martin Luther King,
2 Jr., PhD.," to refuse to pay Arizona Bar Association dues for 2001. This is a letter dated
3 December 5, 2002, signed by the Respondent, and mailed to the editor of the Arizona Attorney.

4 Dr. King (who was actually a Doctor of Divinity), indeed engaged in the type of civil
5 disobedience urged from the likes of Thoreau and Emerson; Gandhi, and their successors. At all
6 times, these practitioners of civil disobedience placed themselves opposite laws that they felt were
7 unjust, and which carried criminal sanctions. There was never a time in the history of any of the
8 great protest movements of the 1960s, and thereafter, that practitioners of civil disobedience were
9 not jailed when their actions were found to be criminally answerable.

10 In fact, it was the very point of civil disobedience that one drew attention to an unjust law
11 by disobeying it, and publicizing the subsequent criminalization of their efforts. From the draft
12 card burners of the 1960s to the Chicago Seven, this type of vocal and public disobedience was
13 regularly calculated to result in arrests and trials in an effort to bring about social change; and,
14 eventually, legal change.

15 The Respondent should well know that, should his good faith actions, purposely
16 undertaken to protest a series of laws he feels to be unjust, result in sanctions, that, under the great
17 tradition of civil disobedience, he should be held to the same sanctions as others who have been
18 found responsible for these acts, although in the pursuit of less altruistic ends.

19 PROPORTIONALITY REVIEW

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

24 Proportionality is difficult in this case, as there is a wide range of sanctions that have been
25 applied in other cases of a similar nature, which require a case-by-case approach to discipline. *In*
26 *re Shannon*, 179 Arizona 52, 71, 876 P2d 548, 567 (1994). See also matter of *Reiley*, 142
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1 Arizona 604, 615 (1984). These cases are cited by the bar in their Post Hearing Memorandum,
2 which also serves as a basis to point out other mitigating and aggravating factors of note to this
3 Hearing Officer.

4 In many of the cases recommended to the Hearing Officer by both parties, see e.g. *In re*
5 *Kistler* Supreme Court No. SB-00-0098-D, a Supreme Court decision filed September 18, 2000,
6 wherein censure was recommended for practice during a period of administrative suspension. This
7 was a case where settlement was reached by a Tender of Admissions and Agreement for Discipline
8 by Consent, distinguishing it from the matter herein.

9 In *In re Rhees*, SB 01-0161, Rhees practiced law after he had been suspended. There, the
10 Disciplinary Commission found that the ABA Standards governing a lack of candor to the tribunal
11 applied; and, there, found that substantial experience in the practice of law was an aggravating
12 factor. Further, there was cooperation with the State Bar. Rhees received a four month
13 suspension.

14 In *In re Allred*, another factor in mitigation, no dishonest motive, was revealed. In that
15 case, Allred was suspended for six months and one day. *In re Stevens*, 178 Arizona 2621 (1994)
16 contained many of the same factors, but Stevens' infractions were intentional, as he intended to
17 file a federal challenge to Rule 45. Stevens consented to discipline prior to a formal complaint,
18 showed remorse and apologized to the court. Afterwards, he received a censure.

19 Respondent's continuation of the practice of law while suspended exposed at least one
20 client to the endangerment of a dismissal of his entire matter. That alone represents the most
21 significant aggravating factor to the undersigned. Of almost equal significance, is the lack of
22 candor to the various tribunals Respondent appeared in front of, which he freely admits; although,
23 in retrospect, argues that it resulted in no harm. It is the feeling of the Hearing Officer that there
24 is actual prejudice to the administration of justice in such a situation.

25 Most states, Arizona included, have not hesitated to claim inherent power, reserved to the
26 judiciary, to regulate the practice of law. Arizona holds that the courts have power to license

1 attorneys as an adjunct to their inherent powers. See *State Bar v. Arizona Land Title and Trust*
2 *Company* 366 P.2d 1, (1961), an Arizona Supreme Court decision. Instructive in this regard is
3 the *Lawyers' Manual on Professional Conduct* §§201:101, et. seq., reference regulation of the bar.
4 There is an exhaustive discussion of mandatory bar membership and dues payment requirements,
5 throughout the United States. Once again, the *Keller* case, supra, is cited as settling the question
6 of mandatory bar membership and bar dues. Respondent's argument centers on his objections to
7 spending of mandatory dues on types of items that differ with his ideological or political
8 preferences.

9 The test in Arizona for the unauthorized practice of law has been articulated in the case of
10 *In re Fleischman*, 933 p.2d 563 (Ariz, 1997). Therein, the Supreme Court states that those acts
11 constituting the practice of law are those which are customarily performed, or commonly
12 understood to be performed by lawyers. By definition, an unlicensed person; or, as in this case,
13 one who's privileges have been suspended pursuant to applicable law, has participated in the
14 unauthorized practice of law.

15 The objective of lawyer discipline is not to punish the lawyer, but to protect the public, the
16 profession and the administration of justice. *In re Neville*, 147 Arizona 106, 708 p.2d 1297
17 (1985). And in *In re Anderson*, Supreme Court No. SB-02-0006-D (2002), the Disciplinary
18 Commission found a violation of ER 8.4(c), similar to that herein, involving dishonesty, fraud,
19 deceit or misrepresentation. Anderson argued that, although he participated in negotiations with
20 insurance companies in order to settle personal injury cases, that was not a "big" lawyer function.
21 The commission agreed that clear and convincing evidence was present that Respondent had held
22 himself out as a lawyer and engaged in unauthorized practice while under suspension. There, as
23 here, ABA Standards 9.22 and 9.32 reveal the pattern of misconduct, refusal to acknowledge
24 wrongful nature of conduct and substantial experience in the practice of law. An aggravating
25 factor not present in the instant case was dishonest or selfish motive, a similar mitigating factor to
26 the Respondent herein was absence of a prior disciplinary record. Therein, disbarment was

1 provided for.

2 All other cases follow a similar individualistic pattern.

3 **RECOMMENDATION**

4 The purpose of lawyer discipline is not to punish the lawyer, but to protect the
5 public and deter future misconduct. *In re Fioramonti*, 176 Ariz. 182, 859 P.2d 1315, 1320 (1993).

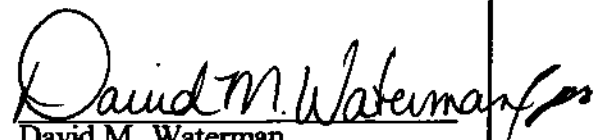
6 It is also the objective of lawyer discipline to protect the public, the profession and the
7 administration of justice. *In re Neville*, 147 Ariz. 106, 708 P.2d 1297 (1985). Yet another
8 purpose is to instill public confidence in the bar's integrity. *Matter of Horwitz*, 180 Ariz. 20, 29,
9 881 P.2d 352, 361 (1994).

10 In imposing discipline, it is appropriate to consider the facts of the case, the American Bar
11 Association's *Standards for Imposing Lawyer Sanctions* ("Standards") and the proportionality
12 of discipline imposed in analogous cases. *Matter of Bowen*, 178 Ariz. 283, 286, 872 P.2d 1235,
13 1238 (1994).

14 An exhaustive review of the case law provided by both sides, together with independent
15 research, produces the following recommendation from the undersigned - that, on all counts plead
16 herein, the Respondent should receive a 30 day suspension from the practice of law. Respondent
17 should further notify all of his active clients of his suspension, and cooperate fully with the State
18 Bar, in entering into the suspension, and providing for the protection of his clients with active
19 litigation during said period.

20 Respondent shall also pay the costs and expenses incurred in this disciplinary proceeding.

21 Respectfully submitted this 13th day of July, 2004.

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24 
25 David M. Waterman
Hearing Officer 8J

26 Original filed with the Disciplinary Clerk
27 this 13th day of July, 2004.

1 Copy of the foregoing mailed
this 13th day of July, 2004, to:

2 Edmund D. Kahn
3 Respondent
4 7465 East Broadway Blvd., Suite 201
5 Tucson, AZ 85710

6 Cari M. Dangerfield
7 Conflicts Case Committee Member
8 State Bar of Arizona
9 111 West Monroe, Suite 1800
10 Phoenix, AZ 85003-1742

11 by: P. Williams

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