

FILED

JAN 20 2005

HEARING OFFICER OF THE
SUPREME COURT OF ARIZONA
BY *Williams*

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

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3
4 IN THE MATTER OF A MEMBER) No. 03-1206, 04-0523
5 OF THE STATE BAR OF ARIZONA,)
6)
6 **GORDON M. WASSON,**)
7 **Bar No. 009884**)
8) **HEARING OFFICER'S REPORT**
8 RESPONDENT.)
9)

10 **PROCEDURAL HISTORY**

11 The State Bar filed a Complaint on August 23, 2004. Respondent filed an
12 Answer on September 13, 2004. A hearing was scheduled for December 16,
13 2004. The Settlement Officer conducted a settlement conference on October 26,
14 2004 at which time the parties were able to reach a settlement. The parties filed a
15 Tender of Admissions and Agreement for Discipline by Consent (Tender) and a
16 Joint Memorandum in Support of Agreement for Discipline by Consent (Joint
17 Memo) on November 12, 2004. On November 16, 2004, the State Bar filed a
18 Notice of Filing and Serving of Statement of Costs. After reviewing the Tender
19 and the Joint Memo, this Hearing Officer issued an Order requesting that the
20 parties file supplemental evidence in support of several of the mitigating factors.
21 On December 16, 2004, the parties filed a First Notice of Filing Supplemental
22 Records containing copies of Respondent's criminal convictions. On January 14,
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1 2005, the parties filed a Second Notice of Filing Supplemental Records. No
2 hearing has been held.

3
4 **FINDINGS OF FACT**

5 1. At all times relevant, Respondent was an attorney licensed to practice
6 law in the State of Arizona, having been admitted to practice in Arizona on
7 October 20, 1984.

8
9 2. On October 20, 2003, the Arizona Supreme Court issued an Order
10 placing Respondent on Interim Suspension in State Bar File No. 03-1702,
11 pursuant to Rule 57(a)(2) and 57(b), Ariz. R. S. Ct.¹, until final disposition of all
12 pending proceedings against Respondent.

13
14 3. The Arizona Supreme Court's Interim Suspension was based on
15 Respondent's Aggravated DUI, (Class Four) felony convictions in Graham
16 County Superior Court matter CR 2003-057 and Maricopa County Superior Court
17 matter CR 2002-097856.

18 4. The Order of Interim Suspension was served on Respondent on
19 October 29, 2003.

20 5. On November 13, 2003 the State Bar of Arizona received an Affidavit
21 from Respondent informing the State Bar, pursuant to Rule 63(d)², Ariz. R. S. Ct.,
22 that Respondent had complied with provisions of the Order of Interim Suspension
23
24

25

¹ Current Rule 53(h)1 and 53(h)2A, Ariz. R. S. Ct., effective December 1, 2003.

² Current Rule 72(e), effective December 1, 2003.

1 and that Respondent was incarcerated and due to be released on December 15,
2 2003.

3
4 6. At all times relevant, Respondent was an attorney licensed to practice
5 law in Tennessee.

6 7. On June 10, 2004 the Tennessee Supreme Court entered an order
7 temporarily suspending Respondent pending disposition of all proceedings
8 against Respondent by the State of Arizona. The Tennessee Supreme Court
9 Order was based on the Board of Professional Responsibility's Petition for
10 Reciprocal Discipline pursuant to Rules of the Tennessee Supreme Court §17,
11 Rule 9.
12

13 8. Respondent remains on suspension in both Arizona and Tennessee.

14 9. Formal Complaint was filed against Respondent on August 23, 2004
15 and service of the Complaint was made by U.S. Mail to Respondent's last known
16 address; and, Respondent filed a timely answer to said complaint on or about
17 September 13, 2004.
18

19 10. Respondent further tenders conditional admissions as set forth more
20 specifically hereafter.
21

22 **COUNT ONE (File No. 03-1206)**

23 1. On or about June 2, 2003 Respondent was found guilty of one count
24 of Aggravated Driving Under the Influence of Intoxicating Liquor, a Class 4
25 Felony, in Graham County Superior Court, Complaint No. CR 2003-057.

1 2. Respondent was sentenced to four months in the Arizona
2 Department of Corrections to begin June 2, 2003 and was placed on supervised
3 probation for a period of four years, commencing June 2, 2003.
4

5 3. Respondent's four-month period of incarceration was to be served
6 concurrently with a period of incarceration already being served by Respondent
7 in Maricopa County Superior Court matter CR 2002-097856.
8

9 4. On June 27, 2003 C. Allan Perkins, Chief Deputy County Attorney,
10 Graham County, submitted a complaint to the State Bar of Arizona, pursuant to
11 ER 8.3(a), Rule 42, Ariz. R. S. Ct., informing the State Bar of Respondent's
12 conviction.
13

14 5. On November 18, 2003, Staff Bar Counsel ("Bar Counsel") sent a
15 letter to Respondent informing him that the matter had been referred to the
16 Lawyer Regulation department of the State Bar for formal investigation, and
17 requesting that he respond to the allegations contained in the complaint within 20
18 days.
19

20 6. On January 21, 2004, Bar Counsel mailed a second letter to
21 Respondent providing him with another opportunity to respond to the charge.
22

23 7. Respondent failed to timely respond to the charge.

24 8. A Probable Cause Order for violations of Rule 42, Ariz. R. S. Ct.,
25 including but not limited to ER 8.4(b), was entered on April 16, 2004 in State Bar

1 File No. 03-1206.

2 **COUNT TWO (File No. 04-0523)**

3
4 9. On or about April 16, 2003 Respondent was found guilty of one
5 count of Aggravated Driving Under the Influence of Intoxicating Liquor or
6 Drugs, a Class 4 Felony, in Maricopa County Superior Court Complaint No. CR
7 2002-097856.³

8
9 10. Respondent was sentenced to eight months in the Arizona
10 Department of Corrections to begin April 16, 2003 and was placed on probation
11 for a period of five years, commencing April 16, 2003.

12
13 11. The State Bar of Arizona discovered this felony conviction while
14 conducting an investigation into the charge filed against Respondent by the
15 Graham County Attorney's Office in State Bar File No. 03-1206.

16
17 12. On April 20, 2004 Staff Bar Counsel ("Bar Counsel") sent a letter to
18 Respondent informing him that the matter, (i.e. his plea to Aggravated DUI in
19 Maricopa County Superior Court Case Number CR 2002-097856), had been
20 referred to the Lawyer Regulation department of the State Bar for formal
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22
23 ³ The State's Complaint in CR 2002-097856 (at Counts 3 and 4) alleged that Respondent was
24 previously convicted of a violation of DUI statute on or about January 7, 2002 for a violation
25 occurring on October 19, 2001 in La Paz County in Case No. JP/TR #01-2089; and, the
aforementioned Complaint also alleged a prior conviction, for violation of extreme DUI statute
on or about January 3, 2002 (for violation occurring on June 5, 2001) in Mesa City Court, Case
No. 2001-1561119. The same DUI violations and convictions are alleged herein by reference.

1 investigation, and requesting that he respond to the allegations contained in the
2 complaint within 20 days.

3
4 13. By letter dated April 19, 2004 Respondent submitted his response to
5 Bar Counsel. In his response, Respondent readily admits to his criminal conduct
6 supporting his guilty pleas in the aforementioned Graham and Maricopa County
7 felony cases. Respondent also explains his history of treatment for his substance
8 abuse and emotional disorder.

9
10 14. Because of the aforementioned felony convictions in Graham and
11 Maricopa County Superior Courts, Respondent was incarcerated and in the
12 custody of the Arizona Department of Corrections from April 16, 2003 until
13 December 15, 2003 and is currently on probation.

14
15 15. A Probable Cause Order for violations of Rule 42, Ariz. R. S. Ct.,
16 including but not limited to ER 8.4(b), was entered on May 10, 2004 in State Bar
17 File No. 04-0523.

18 19 **CONDITIONAL ADMISSIONS**

20 Respondent conditionally admits his conduct violated Rule 42, Ariz. R. S.
21 Ct., specifically, ER 8.4(b) and in conjunction with Rule 53(h), Ariz. R. S. Ct.

22 **ABA STANDARDS**

23 The ABA *Standards* list the following factors to consider in imposing the
24 appropriate sanction: (1) the duty violated, (2) the lawyer's mental state, (3) the
25

1 actual or potential injury caused by the lawyer's misconduct, and (4) the
2 existence of aggravating or mitigating circumstances. *ABA Standard 3.0.*

3
4 In determining the appropriate sanction, the parties considered both the
5 American Bar Association's *Standards for Imposing Lawyer Sanctions*
6 (*"Standards"*) and Arizona case law. The *Standards* provide guidance with
7 respect to an appropriate sanction in this matter. The court and commission
8 consider the *Standards* a suitable guideline. *In re Peasley*, SB-03-0015-D, ¶¶
9 23, 33 90 P.3d 764 (Ariz. 2004).

11 Given the conduct in this matter, it was appropriate to consider *Standard*
12 5.0, (Violations of Duties Owed to the Public), and more specifically *Standard*
13 5.1 (Failure to Maintain Personal Integrity). Absent aggravating or mitigating
14 circumstances, upon application of the factors set out in *Standard 3.0*, the
15 following sanctions are generally appropriate in cases involving commission of
16 a criminal act that reflects adversely on the lawyer's honesty, trustworthiness,
17 or fitness as a lawyer in other respects:
18
19

20 5.11

21 Disbarment is generally appropriate when:

22 (a) a lawyer engages in serious criminal conduct, a necessary element
23 of which includes intentional interference with the administration of
24 justice, false swearing, misrepresentation, fraud, extortion,
25 misappropriation, or thefts; or the sale, distribution or importation of
controlled substances; or the intentional killing of another; or an attempt
or conspiracy or solicitation of another to commit any of these offenses;
or

1 (b) a lawyer engages in any other intentional conduct involving
2 dishonesty, fraud, deceit, or misrepresentation that seriously adversely
3 reflects on the lawyer's fitness to practice.

4 5.12

5 Suspension is generally appropriate when a lawyer knowingly engages in
6 criminal conduct which does not contain the elements listed in *Standard*
7 5.11 and that seriously adversely reflects on the lawyer's fitness to
8 practice.

9 5.13

10 Reprimand is generally appropriate when a lawyer knowingly engages in
11 any other conduct that involves dishonesty, fraud, deceit, or
12 misrepresentation and that adversely reflects on the lawyer's fitness to
13 practice law.

14 5.14

15 Admonition is generally appropriate when a lawyer engages in any other
16 conduct that reflects adversely on the lawyer's fitness to practice law.

17 *Standard 5.1 (Failure to Maintain Personal Integrity).*

18 Respondent admits, as allowed in the Complaint at Counts One and Two,
19 that he was convicted on felony criminal charges (Class 4 felony) stemming
20 from his driving while under the influence of intoxicating liquor on more than
21 one occasion. Such conduct diminishes the integrity of the profession.
22 Maintaining the integrity of the profession is a duty owed as a professional and
23 when lawyers engage in illegal conduct the public confidence in the integrity of
24 officers of the court is undermined. *Standards*, at 5.0.

25 Based on the foregoing, the presumptive sanction for the admitted
conduct appears to be suspension. After determining the presumptive sanction,

1 it is appropriate to evaluate factors enumerated in the *Standards* that would
2 justify an increase or decrease in the presumptive sanction. In re Scholl, 200
3 Ariz. 222, 225-26, 25 P.3d 710, 713-14 (2001); In re Savoy, 181 Ariz. 368, 371,
4 891 P.2d 236, 239 (1995).

6 AGGRAVATING AND MITIGATING FACTORS

7 The parties agree that, except for the recurrent severity of Respondent's
8 substance abuse disorder, the only aggravating factor is that Respondent
9 engaged in illegal conduct, *Standard 9.22(k)*.

11 The applicable mitigating factors⁴ include *Standards 9.32*:

12 (a) absence of a prior disciplinary record

13 (b) absence of a dishonest or selfish motive

14 (c) personal or emotional problems⁵

15 (e) full and free disclosure to disciplinary board or cooperative attitude
16 toward proceedings⁶

17 (i) mental disability or chemical dependency including alcoholism or
18 drug abuse when (1) there is medical evidence that the respondent is affected by
19 a chemical dependency or mental disability; (2) the chemical dependency or
20 a chemical dependency or mental disability; (2) the chemical dependency or
21 a chemical dependency or mental disability;

23 ⁴ The parties cited an additional mitigating factor of interim rehabilitation, *Standard 9.32(j)*,
24 which according to the 1992 amendments to the *Standards* no longer exists; therefore, this
Hearing Officer does not find this factor and notes that it does not affect the outcome.

25 ⁵ See parties' Second Notice of Filing Supplemental Records.

⁶ See parties' Second Notice of Filing Supplemental Records.

1 mental disability caused the misconduct; (3) the respondent's recovery from the
2 chemical dependency or mental disability is demonstrated by a meaningful and
3 sustained period of successful rehabilitation; and the recovery arrested the
4 misconduct and recurrence of that misconduct is unlikely.⁷

6 (l) remorse - It is relevant that Respondent admitted and accepted
7 responsibility for his actions by pleading guilty, so that the government was not
8 burdened with the time and expense of preparing for trial. This is in marked
9 contrast to the Respondent in *Scholl, supra*. Likewise, Respondent is willing to
10 enter into a consent agreement rather than burden the State Bar with the time
11 and expense required to pursue the matter through formal hearing.

14 (k) imposition of other penalties or sanctions⁸ - In the Maricopa County
15 Superior Court case Respondent was sentenced to 8 months in the Arizona
16 Department of Corrections ("ADOC") to be followed by 5 years of probation.
17 Respondent was also sentenced to four months in ADOC to be followed by four
18 years of supervised probation in the Graham County Superior Court matter.
19 The sentence in the Graham County case was served concurrently with the
20 sentence in the Maricopa County case. Respondent is currently believed to be
21 in compliance with the terms of his probation.⁹

25 ⁷ See parties' Second Notice of Filing Supplemental Records.

⁸ See parties' First Notice of Filing Supplemental Records.

⁹ See Exhibit H to parties' Second Notice of Filing Supplemental Records.

1 Finally, Respondent's conduct did not cause any client harm. Although
2 this is not an enumerated mitigating factor under the *Standards*, the court and
3 commission have placed great weight on this factor in previous case law. See,
4 e.g., Scholl, 200 Ariz. at 224-25, 25 P.3d at 12-13; In re Rivkind, 164 Ariz. 154,
5 157-58, 791 P.2d 1037, 1040-41 (1990).
6

7 The parties have identified what they believe to be the relevant
8 aggravating and mitigating factors. This Hearing Officer does not believe that
9 these factors justify a decrease in the presumptive sanction in this case.
10

11 PROPORTIONALITY REVIEW

12 To have an effective system of professional sanctions, there must
13 be internal consistency, and it is appropriate to examine sanctions imposed in
14 cases that are factually similar. *Peasley*, SB-03-0015-D, ¶¶ 33, 61. However,
15 the discipline in each case must be tailored to the facts of the individual case.
16 *Id.* at ¶ 61 (citing *In re Alcorn*, 202 Ariz. 62, 76, 41 P.3d 600, 614 (2002); *In re*
17 *Wines*, 135 Ariz. 203, 207, 660 P.2d 454, 458 (1983)).
18
19

20 In *In re Keefe* 172, Ariz. 394, 837 P.2d 1129 (1992), Keefe's
21 arrest, for driving while under the influence and driving with a suspended
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1 license, led to a conviction of aggravated driving, a class five felony¹⁰, and a
2 six-month prison term followed by three years probation.

3
4 The Commission found that, while Keefe's conduct did not involve
5 dishonesty or breach of trust, the lack of judgment exhibited by the Respondent
6 reflected adversely on his fitness to practice law. The Commission determined
7 that the presumptive sanction was suspension and found that the only
8 aggravating factor was that Keefe had engaged in illegal conduct.
9

10 The Commission found seven mitigating factors, including no prior
11 disciplinary record; no dishonest or selfish motive; full cooperation with State
12 Bar's investigation; other sanctions and penalties resulting from his misconduct;
13 chemical dependency (alcoholism); good faith effort to rectify consequences of
14 misconduct and remorse. The Commission determined that a six-month
15 suspension and two-years probation with extensively specific terms addressing
16 his chemical dependency (alcoholism), which included attendance in MAP once
17 a week; attendance at AA three times per week and the need for an AA sponsor,
18 a sobriety monitor and a practice monitor, were appropriate sanctions. The
19 Commission also found that it was appropriate to make the suspension
20 concurrent with Respondent's six-month prison term since the incarceration
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25 ¹⁰ Currently classified as Aggravated Driving Under the Influence, a Class 4 Felony.

1 basically equaled an additional period of suspension from the practice of law.
2 The *Keefe* Commission determined that to make the suspension effective after
3 Respondent's release would constitute the equivalent of a one-year suspension.
4

5 In *In re Farley*, 2000 Ariz. Lexis 135, Supreme Court No. SB-00-0088-
6 D, Farley was retroactively suspended for a period of three years. The
7 Disciplinary Commission also required that, prior to reinstatement, Farley
8 would need to prove his fitness to practice and this would then determine the
9 need for an order of a period of probation. The nature of the criminal
10 conviction in *Farley* is not similar to the present matter. Farley was sentenced
11 to 200 days jail (time served) and three years probation after pleading guilty to
12 Attempted Aggravated Assault, a Class 4 Felony and Unlawful Flight from a
13 Law Enforcement Vehicle, a Class 5 Felony. Farley admitted to the misconduct
14 and the Commission found that he had violated ER 8.4(d) and Rule 51(a)¹¹,
15 Ariz.R.S.Ct. The *Farley* Commission determined that there were no
16 aggravating factors and that there were six factors present in mitigation
17 including *Standard* 9.32(a) absence of a prior disciplinary record, (b) absence of
18 selfish or dishonest motive, c) personal or emotional problems, (e) full and free
19 disclosure to disciplinary board of cooperative attitude toward proceedings, (k)
20 imposition of other penalties or sanctions and (l) remorse. Among the cases
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25 ¹¹ Currently Rule 53(h), Ariz.R.S.Ct.

1 considered in its proportionality analysis the *Farley* Commission considered the
2 sanction in *Keefe* but determined that an increased period of suspension was
3 appropriate since “there was no evidence that the criminal conduct in *Keefe* had
4 the level of dangerousness that exists in this case”.

6 In *In re Politi*, 2001 Ariz. Lexis 21, Supreme Court No. SB-00-0106-D,
7 Politi was found to have violated several rules of ethical conduct in addition to
8 ER 8.4(b), including ER 1.7, 1.9 and 8.4(d). Politi had a history of addiction to
9 painkillers and alcohol abuse. Politi first pled guilty to a misdemeanor DUI in
10 1998, then was arrested in early 1999 for Driving Under the Influence on a
11 suspended license. Politi pled guilty to Aggravated DUI, was sentenced to 4-
12 months in ADOC and placed on probation for 5 years. The Disciplinary
13 Commission suspended Politi for a period of two years, retroactive, to be
14 followed by two years of probation upon reinstatement and return to active
15 status. As in *Keefe*, the Commission included terms of probation specific to
16 underlying conduct involving Politi’s substance abuse. Although the
17 Commission determined that Politi had violated several ethical rules, the
18 sanctions were based upon the most serious instance of misconduct, which was
19 the criminal conduct.

24 Aggravating factors considered in *Politi* included substantial experience
25 in the practice of law, which was offset by an unblemished disciplinary record,

1 and a pattern of misconduct. Mitigating factors deemed relevant were absence
2 of selfish or dishonest motive, timely good faith effort to rectify consequences
3 of misconduct, cooperative attitude toward proceedings, imposition of other
4 penalties or sanctions and mental disability or chemical dependency. The *Politi*
5 Commission relied on *Rivkind*, supra, as the instructive case in its
6 proportionality analysis; (i.e., retroactive two (2) years suspension with two
7 years probation for violation of ER 8.4(d) after respondent pled guilty to
8 attempted possession of cocaine, a class 5 felony).

11 In *In re Vice*, 2002 Ariz. Lexis 46, Supreme Court No. SB-02-0007-D,
12 Vice received a six month and one day suspension followed by one year of
13 probation. Vice was charged with Possession of Narcotic Drugs, a class 4
14 Felony and Possession of Drug Paraphernalia, a Class 6 felony. Vice
15 participated in TASC and successfully completed that diversion program.
16 However, Vice provided false information to the State Bar during its
17 investigation of Vice's felony arrest and at a hearing. Vice's failure to
18 acknowledge the wrongfulness of his actions, and his misrepresentations and
19 false statements to bar counsel, led to an initial recommendation by the State
20 Bar of a three-year suspension. The hearing officer recommended a 6-month
21 and one-day suspension and one-year probation with MAP terms, which was
22 the sanction adopted by the Disciplinary Commission. The Commission found
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1 that this was within the range of reasonableness since the misconduct did not
2 involve actual harm to clients and that protecting the public does not require the
3 imposition of a lengthy suspension and formal reinstatement proceedings. Four
4 aggravating factors found to be present were dishonest or selfish motive, false
5 statements during the disciplinary process, refusal to acknowledge the wrongful
6 nature of the conduct, and illegal conduct, including that involving the use of
7 controlled substances. The two mitigating factors found were absence of a prior
8 disciplinary record and imposition of other penalties or sanctions.
9
10

11 In *In re Harrington*, 2001 Ariz. Lexis 53, Supreme Court No. SB-01-
12 0058-D, Harrington received a censure for his violation of various ethical rules
13 including but not limited to ER 8.4(b). Harrington pled guilty to an
14 undesignated Class 6 felony after presenting a false instrument for filing, in
15 violation of A.R.S. §39-131. Harrington was sentenced to three-years
16 unsupervised probation had to pay restitution and had to serve 300 hours of
17 community service.
18
19

20 The *Harrington* Commission found that three aggravating factors,
21 (dishonest or selfish motive, vulnerability of victim and substantial experience
22 in the practice of law), and five mitigating factors, (absence of a prior
23 disciplinary record, full and free disclosure to disciplinary board or cooperative
24 attitude toward proceedings, character and reputation, imposition of other
25

1 penalties or sanctions, and remorse) reduced the presumptive sanction of
2 disbarment to the imposed mitigated sanction of a censure.

3
4 In *Scholl*, supra, Scholl was convicted in federal court on four counts of
5 filing false tax returns and three counts of structuring currency transactions to
6 avoid treasury-reporting requirements. Each conviction included elements of
7 knowledge of, and intent to, violate the law and the underlying cause of the
8 crimes was Scholl's gambling addiction. However, both the Commission and
9 the Supreme Court gave little if any weight to the gambling as a mitigating
10 factor. Scholl received a six month suspension after review by the Supreme
11 Court of the Disciplinary Commission's imposition of a two year suspension.
12 The Supreme Court found that, although the Hearing Officer's recommendation
13 of a censure was insufficient due to Scholl's crimes involving knowing acts of
14 dishonesty committed with the intent to violate the law, the two-year
15 suspension was also excessive since it failed to address Scholl's "apparently
16 successful effort to rehabilitate himself."
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19

20 The above-cited cases evaluate criminal conduct and establish that a
21 lengthy suspension is appropriate given the facts of this case. In the instant
22 case, Respondent's conduct did not involve dishonesty or breach of trust,
23 however the lack of judgment that he has exhibited over a period of time
24 reflects adversely on his fitness to practice law.
25

1 This agreement provides for a sanction that meets the goals of the
2 disciplinary system. A suspension of two years requires Respondent to
3 establish rehabilitation and fitness to practice law prior to being reinstated, and
4 the two-year probation term provides for Respondent to be closely monitored
5 upon reinstatement. The terms of the agreement serve to protect the public,
6 deter other lawyers from similar conduct and maintain the integrity of the bar.
7

8 RECOMMENDATION

9
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).
17

18
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.
22 *Matter of Bowen*, 178 Ariz. 283, 286, 872 P.2d 1235, 1238 (1994).
23

24 Upon consideration of the facts, application of the *Standards*, including
25 aggravating and mitigating factors, and a proportionality analysis, this Hearing

1 Officer recommends acceptance of the Tender of Admissions and Agreement for
2 Discipline by Consent and the Joint Memorandum in Support of Agreement for
3 Discipline by Consent providing for the following:
4

5 1. Respondent shall be suspended for a period of two years. The term of
6 suspension shall be retroactive to the date of the Supreme Court's Order of
7 Interim Suspension filed on October 20, 2003.
8

9 2. Respondent shall be placed on probation for a period of two years upon
10 reinstatement. The terms of probation are as follows:

11 a. Execution of a MAP (Member Assistance Program)
12 Agreement;
13

14 b. Payment of all back-due and current State Bar of Arizona
15 fees;
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17 c. Compliance with all MCLE requirements and filing of
18 requisite MCLE forms with the State Bar of Arizona; and

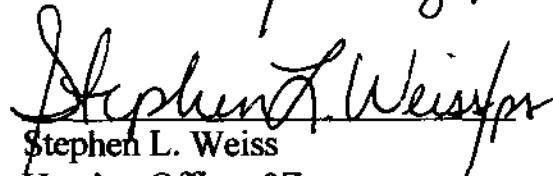
19 d. Compliance with the probation requirements imposed upon
20 Respondent due to criminal convictions in Graham County Superior
21 Court matter CR2003-057 and Maricopa County Superior Court matter
22 CR2002-097856.
23

24 e. In the event that Respondent fails to comply with any of the
25 foregoing conditions, and the State Bar receives information, bar counsel

1 shall file with the Hearing Officer a Notice of Non-Compliance, pursuant
2 to Rule 60(a)5, Ariz. R. S. Ct. The Hearing Officer shall conduct a
3 hearing within thirty days after receipt of said notice, to determine
4 whether the terms of probation have been violated and if an additional
5 sanction should be imposed. In the event there is an allegation that any of
6 these terms have been violated, the burden of proof shall be on the State
7 Bar of Arizona to prove non-compliance by clear and convincing evidence.
8
9

10 3. Respondent shall pay the costs and expenses incurred in this
11 disciplinary proceeding.

12 DATED this 20th day of January, 2005.

13
14 
15 Stephen L. Weiss
16 Hearing Officer 9Z
17
18
19

20 Original filed with the Disciplinary Clerk
21 this 20th day of January, 2005.

22 Copy of the foregoing was mailed
23 this 20th day of January, 2005, to:

24 Gordon M. Wasson
25 Respondent
13610 North 51st Avenue, Apt. 251
Glendale, AZ 85303

1 Michael N. Harrison
2 Bar Counsel
3 State Bar of Arizona
4 111 West Monroe, Suite 1800
5 Phoenix, AZ 85003-1742

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by: PWilliams