

STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO: Bar-12-14

F. LEE BAILEY

v.

ORDER ON MOTION
FOR FINDINGS

BOARD OF BAR EXAMINERS

This matter is before the Court on the Board of Bar Examiners Motion for Findings and for Reconsideration dated June 11, 2013. After review, the Court notes:

1. The Orders of April 18, 2013 and June 7, 2013 included extensive findings addressing all issues that the Court was required to address. In making these findings, the Court was required to consider all of the evidence in the record, but the Court did not and was not required to address each bit of evidence and each prior opinion or order that formed the record on which the Court's orders were based.

2. The Order of April 18, 2013 recognized that findings of fact in some of the prior court orders and opinions were contested in this proceeding, *id.*, 2, and acknowledged that those prior opinions and orders had "sometimes differing

emphasis and results.” *Id.*, 8. The Court then proceeded to make its own findings based on its view of the entire record and did not adopt any particular findings from any particular court order, except when it indicated it was doing so.

3. On the credibility issues asserted by the Board of Bar Examiners in its motion, the Court must again note the opinion in *United States v. Saccoccia*, 433 F.3d 19 (1st Cir. 2005), cited in the April 18, 2013 Order. That opinion, in a matter unrelated to F. Lee Bailey, provides significant insight into Government practice in the early 1990s that apparently allowed and approved defense attorneys being paid from funds that were subject to forfeiture proceedings. *Id.*, 22-24. The opinion also notes an apparent change in the Government’s position in the 1996 – 1998 time period, leading there to an unsuccessful effort, initiated in 1998, to recover attorney fees paid from assets subject to forfeiture. *Id.*, 23 n.3-26. The history depicted in the *Saccoccia* opinion supports the credibility of Bailey’s testimony as to his understanding of the commitments from the Government regarding sources for payment of attorney fees and expenses in the Duboc case.

Because the Court has made sufficient findings to support its orders;

The Court ORDERS:

1. The Board of Bar Examiners Motion for Findings and for Reconsideration is Denied.

Dated: June 13, 2013

BAR-12-14, Order dated June 13, 2013, p. 3

FOR THE COURT,

/S/

Donald G. Alexander
Associate Justice