

FINDINGS AND CONCLUSIONS

Attorney Matthew E. Clark was admitted to the Maine bar in 2006. From 2009 until present, Mr. Clark practiced at a small Waterville, Maine, law firm. The Court notes that except for the instant action, Clark has not otherwise been disciplined for attorney misconduct.

Following a review of the pleadings and the parties' proposal, the Court finds and Clark agrees that he engaged in several violations of the Maine Rules of Professional Conduct. As outlined below, those violations occurred within the context of one divorce case about which two resulting complaints were filed.

COUNT I (GCF# 13-031 Gerald W. Donahue)

On January 24, 2013, Gerald W. Donahue filed a grievance complaint against Attorney Clark. Donahue was a client of Clark and had retained him for a 2011-2012 divorce matter then pending in Waterville District Court.

In his complaint, Donahue alleged that Clark failed to regularly communicate with him, charged an excessive fee, acted dishonestly towards him, and failed to properly represent Donahue in the divorce matter. Specifically, months after the May 2012 trial, Clark failed to notify Donahue that the District Court had issued a decision and that Clark had already received a copy of the divorce judgment. His failures in that regard violated M.R. Prof. Conduct 1.2(a), 1.3, and 1.4.

Clark also wrongly advised Donahue regarding his appeal rights and then refused to assist after Donahue decided to undertake an appeal of the judgment. Clark agrees that he failed to timely communicate with Mr. Donahue, that he improperly advised him regarding the appeal rights, and that he failed to assist Donahue's post-judgment efforts. Due to Clark's actions Donahue was ultimately barred from filing an appeal of his divorce judgment.

Furthermore, while Clark was not obligated to prosecute Donahue's appeal, he was required to terminate the representation in a manner that was not prejudicial to Donahue's interests. His failure to do so was harmful to Mr. Donahue.

Despite multiple opportunities to answer Donahue's complaint, Clark filed no response to that complaint. Clark likewise failed to answer the Disciplinary Petition or attend the July 2013 disciplinary hearing conducted by the Grievance Commission.

Count II
GCF# 13-053/James A. Billings, Esq.

On January 25, 2013, pursuant to M.R. Prof. Conduct 8.3 ("Reporting Professional Misconduct"), Attorney James A. Billings of Augusta, Maine, filed a grievance complaint against Clark.

Billings was successor counsel for Gerald Donahue. As such, the substance of Billings's complaint is nearly identical to that filed earlier by Donahue.

In his complaint Billings explained how Clark had failed to provide diligent representation to Donahue, in violation of M.R. Prof. Conduct 1.3 and 1.4. Additionally, Billings detailed Clark's failure to return any of Billings's phone calls or written requests for information. Clark had also delayed returning Donahue's client file despite repeated requests for the same.

Despite the requirement to do so, Clark failed to answer or otherwise respond to Billings's complaint. Clark's failure constituted a violation of M.R. Prof. Conduct 8.1(b) [disciplinary matters].

Based upon all of the above-outlined findings, the Court concludes that Attorney Clark committed violations of M.R. Prof. Conduct 1.1 [competence]; 1.2(a) [scope of representation]; 1.3 [diligence]; 1.4 [communication]; 1.5(a) [fees]; 1.15(f) [safekeeping property]; 1.16(d) [termination of representation]; and 8.1(b) and 8.4(a)(c)(d)[other misconduct].

SANCTION

Attorney Clark's multiple violations of the Maine Rules of Professional Conduct are serious and the Court must consider an appropriate sanction. The Court is mindful that the primary purpose of attorney discipline proceedings is not punishment but rather protection of the public.

The Court notes that Attorney Clark has not been disciplined since his admission to practice. Moreover, the Court has considered as a mitigating factor the fact that Attorney Clark does not anticipate a return to the practice of law. Also of import is the fact that Attorney Clark has taken responsibility for his professional errors and expressed remorse for causing his former client,

Mr. Donahue, serious upset and distress. The Court is aware that Attorney Clark has suffered from severe clinical depression and is now actively engaged in treatment.

Accordingly, effective January 31, 2014, Attorney Matthew E. Clark is suspended from the practice of law for three (3) months. By issuing this suspension, the Court accepts and approves the parties' agreement. Following his suspension, and pursuant to his request, Attorney Clark shall immediately be placed upon the list of inactive attorneys. The Court further ORDERS the following conditions in this matter:

On or before January 31, 2014, Attorney Clark shall provide notice to any remaining clients of his suspension, consistent with M. Bar R. 7.3(i)(1).

During the period of suspension, Attorney Clark may not appear before any tribunal and is prohibited from advising, consulting, or meeting with any clients.

If Attorney Clark intends to resume the practice of law and return to active status, the parties agree and the Court hereby orders that Clark must submit his practice to monitoring by an attorney proposed by the parties or otherwise approved by Bar Counsel. Prior to any return to practice and active status, the parties will submit a proposed Order for Monitoring to the Court. Attorney Clark shall not be permitted to resume practicing law until the Court has issued the aforementioned Monitoring Order.

Prior to his return to practice, Attorney Clark shall also contract with the Maine Assistance Program (MAP) for appropriate services and/or support.

MAP's executive director shall notify the Court and Bar Counsel if Attorney Clark fails to enter into a contract with MAP or otherwise follow the MAP recommendations.

Finally, in the event a grievance complaint is received by Bar Counsel after January 21, 2014, Bar Counsel may elect to file a new disciplinary matter directly before the Court pursuant to the terms of this Order and Maine Bar Rule 7.2(b).

Date: January 27, 2014

_____/s/_____
Jon D. Levy
Associate Justice
Maine Supreme Judicial Court