

STATE OF MAINE

SUPREME JUDICIAL COURT

Docket No. BAR-13-17

BOARD OF OVERSEERS OF THE BAR)
)
) Plaintiff)
) v.)
))
 SCOTT DAVID GIESE, ESQ)
 of Biddeford, ME)
 Me. Bar #4294)
) Defendant)

MONITORING ORDER

This Order is incorporated by reference to the Decision and Order dated January 13, 2014.

As the parties have agreed and this Court has ordered, Attorney Giese shall submit his practice of law to the monitoring of Scott M. Houde, Esq. of Biddeford, Maine for a period of one year unless otherwise ordered by the Court. The Court further ORDERS that:

1. Any costs or fees associated with Attorney Houde's monitoring shall be borne by Attorney Giese.
2. Attorney Giese will meet with Attorney Houde at Attorney Houde's calling and convenience, on a bi-weekly basis, unless Attorney Houde subsequently determines that more or less frequent meetings are appropriate.
3. Attorney Houde shall have the right to withdraw and terminate his services at any time for any reason he deems necessary. If he intends to do so, he shall notify Bar Counsel and Attorney Giese of his withdrawal, whereupon this matter shall then be scheduled for further hearing as deemed appropriate by the Court.

4. If any aspect of the monitoring process creates a situation, which is, or might be interpreted to be a conflict of interest under the Maine Rules of Professional Conduct, Attorney Houde may adopt any one of the following courses with the proposed result:
 - a. Attorney Houde ceases to act as monitor and a potential conflict is avoided.
 - b. Attorney Houde continues as monitor, but totally excludes Attorney Giese's client's matter from the monitoring process, so that no conflict is deemed to exist.
 - c. Attorney Houde continues as monitor, but withdraws from the conflicted matter.
 - d. Attorney Houde continues as monitor, and obligates Attorney Giese not to participate in the matter and to promptly obtain replacement counsel for his client(s).
5. Attorney Houde shall have the right to contact clerks of court, judges, or opposing counsel to monitor Attorney Giese's compliance with his professional obligations.
6. Likewise, if Attorney Houde determines that Attorney Giese should refrain from accepting complex cases or otherwise expanding his practice, Attorney Houde shall inform Attorney Giese of that fact. Attorney Giese shall then follow Attorney Houde's directive to refrain or limit his acceptance of such cases.
7. Attorney Houde shall *initiate* no contact with any of Attorney Giese's clients. Attorney Houde's only communications in the performance of his monitoring duties shall be with Attorney Giese or other persons contemplated by this decision. However, if any clients of Attorney Giese contact Attorney Houde with concerns about Attorney Giese, then they should be referred to Bar Counsel's office.
8. Attorney Houde's participation in the disposition of Attorney Giese's disciplinary case and monitoring of Attorney Giese's practice shall be deemed not to create an attorney-client relationship between Attorney

Giese and Attorney Houde or between Attorney Houde and Attorney Giese's clients. Specifically, Attorney Houde shall be deemed not to represent Attorney Giese or any of Attorney Giese's clients or to be employed by them in any capacity and Attorney Houde shall not have any responsibility of any nature to any of them. Moreover, the attorney-client privilege shall not apply to Attorney Houde's monitoring of Attorney Giese's practice, and Attorney Houde shall be immune from any civil liability (including without limitation, any liability for defamation) to Attorney Giese or any of Attorney Giese's clients.

9. Attorney Houde shall have the authority to review and examine any of Attorney Giese's files, except those in which Attorney Houde might have adverse interests under paragraph 5. In that event, Attorney Houde shall notify Bar Counsel who may then develop an alternative means of file review.
10. Attorney Giese shall prepare and present to Attorney Houde two weeks in advance of their first meeting a list of all his current clients, showing each pending client's matter with a brief summary and calendar of the status thereof. For all subsequent meetings, Attorney Giese shall prepare and present that information to Attorney Houde at least three days in advance of the meeting.
11. Attorney Houde will, as soon as practicable, have Attorney Giese establish a method of objectively identifying delinquent client matters and have him institute internal checks and controls to make his practice appropriately responsible to the needs of his clients.
12. Attorney Houde shall file a confidential report with the Court every three months or sooner if the Court deems it necessary. The Report shall be copied to Attorney Giese and Bar Counsel and it shall cover at least the following subjects:
 - a. measures Attorney Giese has taken to avoid delinquencies;
 - b. a description of any client matter identified as delinquent or problematic;

c. any professional assistance Attorney Houde has provided to Attorney Giese.

13. Attorney Houde shall have the duty to report to the Court and Bar Counsel any apparent or actual professional misconduct by Attorney Giese of which Attorney Houde becomes aware. Likewise, Attorney Houde shall report any lack of cooperation by Attorney Giese with the terms of this Order.

Date: January 15, 2014

/s/
Joseph J. Jabar
Associate Justice
Maine Supreme Judicial Court