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STATE OF MAINE
 SUPREME JUDICIAL COURT

Docket No. BAR-18-5 BOARD OF OVERSEERS OF THE BAR

BOARD OF OVERSEERS OF THE BAR,)
 Plaintiff,)
)
 v.)
)
 EUGENE J. McLAUGHLIN JR., Esq.)
 Defendant)

Sanctions
(PHASE 2)

A hearing was held on March 25, 2019, at the Penobscot Judicial Center in Bangor to address the issue of sanctions to be imposed after this Court's finding of multiple violations of the Maine Rules of Professional Conduct. See Findings and Conclusions, dated January 3, 2019. The Board was represented by Alan P. Kelly, Esq., and McLaughlin was represented by Leonard I. Sharon, Esq. The Court heard arguments of counsel, and McLaughlin addressed the Court on his own behalf.

DISCUSSION

The Court's earlier finding that McLaughlin violated multiple provisions of the Maine Rules of Professional Conduct¹ was based upon a single course of action that occurred on March 30, 2016. As noted in this Court's earlier findings, McLaughlin gave patently incorrect advice to his client regarding the client's right to enter a house and remove property; McLaughlin actively participated in the entry and removal of the property; and McLaughlin failed to provide a frank and truthful account of his behaviors to the Board during its proceedings. The matter is now in order for consideration of appropriate sanctions in light of McLaughlin's actions.

Rule 21(c) of the Maine Rules of Professional Conduct provides factors to be considered in fashioning appropriate sanctions for violations of the Rules of Professional Conduct. The Court considers them in turn:

¹ The Court found violations of Rules 1.1 (Competence); 1.8(a) (Conflict of interest); 1.8(i) (Conflict of interest); 3.3(a) (Candor); Rules 8.1 (Statements in disciplinary matters); 8.4(a), (b), (c), and (d) (Misconduct).

(1) Whether the lawyer has violated a duty owed to the client, to the public, to the legal system, or to the profession.

McLaughlin's advice to his client that the client could enter the house and remove personal property was clearly contrary to the court order prohibiting the same. As such, the advice violated a duty owed to the client. Further, because the entry and removal constituted a crime against the person who had the exclusive right to possession of the premises, McLaughlin's actions also violated a duty owed to the public. Finally, McLaughlin's advice and actions contributed to the violation of a valid and binding court order, which constituted a violation of a duty owed to the legal system.

(2) Whether the lawyer acted intentionally, knowingly, or negligently.

The Court accepts McLaughlin's assertions that his actions on March 30, 2016, were not occasioned by a specific desire and intent to violate a court order. However, he acknowledges, and the Court finds, that he knew his actions were wrongful.

(3) The amount of actual or potential injury caused by the lawyer's conduct.

Although the parties agree that the actual value of the removed property (the treadmill) was not enormous—it had a value of approximately \$200—the distress caused to the possessor of premises by the intrusion, and the client's ultimate conviction for criminal trespass, are significantly injurious consequences of McLaughlin's actions.

(4) The existence of any aggravating or mitigating factors.

The parties argue, and the Court agrees, that significant aggravating and mitigating factors are present. The Court has considered all of the factors enumerated in the ABA Standards for Imposing Lawyer Sanctions originally approved in February 1986 and amended in February 1992 but addresses below only those which the Court finds salient to the facts of this matter.

Looking to aggravating factors, McLaughlin was motivated in part to procure the treadmill for his paralegal as a gift. *See* ABA Standard 9.22(b). His statements to the Board and to the Court during the process included statements that were not candid or honest. *See* ABA Standard 9.22(f). McLaughlin had decades of experience in the practice of law. *See* ABA Standard 9.22(i). Lastly, the client's entry onto the premises and his removal of the property was illegal; by knowingly facilitating and actively participating in this


illegal behavior, McLaughlin likewise committed illegal conduct. See ABA Standard 9.22(k).

This Court finds that two mitigating factors, as enumerated in the ABA Standards for Imposing Lawyer Sanctions, are present. First, McLaughlin has no notable record of prior disciplinary action.² See ABA Standard 9.32(a). Second, McLaughlin is deeply and profoundly remorseful. See ABA Standard 9.32(l). Additionally, the Court finds that McLaughlin's practice, which is directed in large degree to individuals with low or limited incomes, has provided a benefit to the residents of Aroostook County, and is considered to be a further mitigating factor.

SANCTION

After considering the factors noted above and the arguments of counsel, the Court determines that a disciplinary suspension of six months is warranted but will suspend three months of that period, to be followed by a period of nine months' probation (to commence on the date that McLaughlin is reinstated to the practice of law), during which Francis Bemis, Esq. will serve (if he is willing) as a monitor and provide periodic reports, at least every other month, to the Board of Overseers of the Bar.³ During the probationary period, McLaughlin and the monitor will review his active cases and assess his handling of those matters for compliance with the Maine Rules of Professional Conduct. The period of suspension shall commence April 29, 2019.

Dated: March 26, 2019



Hon. Andrew M. Mead
Associate Justice
Maine Supreme Judicial Court

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² McLaughlin apparently received a warning from the Grievance Commission more than twenty years ago.

³ If Mr. Bemis is unwilling or unable to serve, the parties will agree upon another member of the bar in good standing to fulfill the monitor function.