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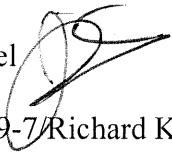
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MEMORANDUM

TO: Clerk of the Law Court, Clerks of the Maine Superior and District Courts, Registers of Probate, Clerk of the Administrative Court and Clerk of the U.S. District Court

FROM: J. Scott Davis, Bar Counsel 

RE: Public Reprimand/BAR-09-7/Richard K. DuBois, Esq.

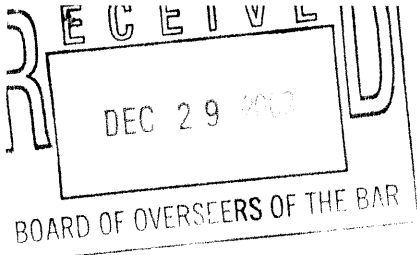
DATE: January 4, 2010

Pursuant to Maine Bar Rule 7.3(i)(1)(E) and the Board of Overseers of the Bar's Protocol for publication of disciplinary matters please be notified as follows concerning the enclosed Disciplinary Order of the Maine Supreme Judicial Court (Alexander, J.):

Richard K. DuBois, Esq. (Bar #7032) received a public reprimand for violation of then applicable Maine Bar Rules 3.1(a); 3.2(f)(4) and 3.13(c)(2).

Thank you.
Enclosure

c: Michael E. Carpenter, Esq.
Maine State Bar Association
Attorney Registration File
(all with enclosure)



STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO. Bar-09-7

BOARD OF OVERSEERS OF THE BAR

v.

DISCIPLINARY ORDER

RICHARD K. DUBOIS, ESQ.
of Caribou Maine
Maine Bar #7032

FILED

DEC 28 2009

**MAINE SUPREME
JUDICIAL COURT**

This matter came before the Court upon the filing of an Information by the Board of Overseers of the Bar, pursuant to M. Bar R. 7.2(b). Throughout the proceedings before this Court, the Board has been represented by Assistant Bar Counsel, Jacqueline L.L. Gomes, and Defendant, Richard K. Dubois, Esq., has been represented by Attorney Michael E. Carpenter.

Following the filing of the Information and a conference with the Court, the parties submitted stipulations of the facts and exhibits. The matter was heard in Bangor on December 21, 2009. At the hearing Richard Dubois testified, and counsel presented argument primarily directed to the nature of any sanction that the Court might impose. The matter was then submitted for decision based on the testimony at hearing, the stipulations and exhibits, and the arguments of counsel.

I. CASE HISTORY

Mr Dubois was admitted to the Maine Bar in 1990. He is in private practice as a solo practitioner in Caribou. Proceedings before the Board commenced in September 2007 when an attorney representing a client in a criminal proceeding that did not involve Mr. Dubois, learned of Mr. Dubois' participation in the transaction discussed below and reported it to the Board.

In October 2004, Mr. Dubois was the closing agent for a real estate transaction involving property located in Madawaska. The seller of the property was represented by another attorney. The purchaser was listed on all of the documents associated with the real estate transaction as Ricky Daigle. Mr. Dubois was contacted by Michael Pelletier, a former client, who said he wanted to refer a friend (Mr. Daigle) to Mr. Dubois regarding this real estate transaction. Mr. Dubois opened a file at his office reflecting that Mr. Daigle was the purchaser of the property. Mr. Dubois was to serve only as the closing agent. He did not represent the buyer or the seller.

Numerous telephone calls were made to the Dubois law office by Mr. Pelletier concerning the transaction. Mr. Dubois's legal secretary spoke with Mr. Pelletier in great detail about the transaction. She believed that Mr. Pelletier was the actual purchaser of the property and that she had authority to answer any questions from Mr. Pelletier. However, this belief was not communicated to Mr.

Dubois. The office calendar as kept by the legal secretary reflected that there was a closing for Michael Pelletier on September 27, 2004, followed by a closing for Ricky Daigle and the seller on October 1, 2004.

According to Mr. Daigle's testimony in federal court, Mr. Pelletier provided him with the directions to the Dubois law office as well as the date and time to meet Mr. Pelletier for the closing. Mr. Pelletier also informed Mr. Daigle that the closing was going to be postponed to September 28, 2004. This information had been provided by Mr. Dubois's secretary to Mr. Pelletier. Again, according to Mr. Daigle's testimony, prior to Mr. Dubois's arrival at the closing on September 28, 2004, Mr. Pelletier met Mr. Daigle in the parking lot of the Dubois law office. There Mr. Pelletier gave Mr. Daigle a bag containing cash.

The parking lot surrounds the building that contains the Dubois law office and six other businesses. Because the entrance to the Dubois law office is on the back of the building, portions of the parking lot are not visible to an individual entering the law office.

When Mr. Dubois arrived, Mr. Daigle followed him into the building. Mr. Daigle and the legal secretary then joined Mr. Dubois in his personal office. Mr. Daigle put the bag containing cash in the amount of \$50,540 on Mr. Dubois's desk and signed the closing documents. Mr. Daigle asked if he could leave. Mr. Dubois

informed Mr. Daigle that he would not be given a receipt if he left before the cash was counted. Mr. Daigle left the law office.

Mr. Dubois, accompanied by his legal secretary, deposited the cash into his trust account. At the time of the transaction, Mr. Dubois did not file an Internal Revenue Service (IRS) Form 8300 regarding the receipt of the cash payment in excess of \$10,000. The Internal Revenue Code, 26 U.S.C. § 6050 I (a), (b) (2008) requires that any person engaged in a business who receives more than \$10,000 cash in one transaction must file a return, and IRS Form 8300 is the means for filing that return.¹

The seller attended a closing at the Dubois law office on October 1, 2004. It was the seller's belief that she was selling the property to Michael Pelletier. Mr. Pelletier was in the parking lot of the Dubois law office when the seller entered the building, and they spoke to each other briefly. The seller signed the deed and

¹ Title 26 U.S.C. § 6050 I (2008) states, in pertinent part:

- (a) Cash receipts of more than \$10,000. Any person –
 - (1) who is engaged in a trade or business, and
 - (2) who, in the course of such trade or business, receives more than \$10,000 in cash in 1 transaction (or 2 or more related transactions),shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.
- (b) Form and manner of returns. A return is described in this subsection if such return –
 - (1) is in such form as the Secretary may prescribe,
 - (2) contains –
 - (A) the name, address, and TIN of the person from whom the cash was received,
 - (B) the amount of cash received,
 - (C) the date and nature of the transaction, and
 - (D) such other information as the Secretary may prescribe

closing paperwork (which listed the buyer as Ricky Daigle) without asking any questions of Mr. Dubois. The seller received a check from Attorney Dubois's trust account for the proceeds of the sale. According to her testimony, the seller then met with Mr. Pelletier in the parking lot outside of Attorney Dubois's office and gave him the keys to the property.

For serving as closing agent for this transaction, Mr. Dubois received a fee of \$250.

Based upon Mr. Dubois's contacts with the court system, he knew that Mr. Pelletier was a reputed drug dealer in Aroostook County.

As a result of the above-described transaction, in 2007, Mr. Pelletier was convicted and Mr. Daigle pled guilty to charges of money laundering in federal court.

On October 2, 2007, approximately one week after receipt of the Grievance Complaint, Mr. Dubois filed an IRS Form 8300 regarding the transaction.

II. CONCLUSIONS

In this matter, Mr. Dubois was asked by a former client to perform a relatively minor function as a closing agent for a real estate transaction. Because of the apparent minor nature of the transaction, Mr. Dubois did not give it the attention it was due. Also, he failed to adequately supervise and communicate with his staff who undertook most of the communication to schedule and effectuate the

transaction before his appearance for the closing. Further, when presented with over \$50,000 cash as payment for the transaction, a payment method Mr. Dubois did not anticipate, he failed to be attentive to his legal obligation, pursuant to 26 U.S.C. § 6050 I (a), (b), to file IRS Form 8300.

These actions were the result of Mr. Dubois's carelessness and inattention, but without any plan or intent to violate the law or his ethical obligations, or to aid any other person in violating the law.

For his conduct in failing to adequately supervise his non-lawyer legal secretary and failing to file an IRS Form 8300 regarding the receipt of a cash payment in excess of \$10,000 at the time of the transaction, Attorney Dubois agrees and the Court finds that he violated the then applicable M. Bar R. 3.1(a) [Conduct Unworthy of an Attorney]; 3.2(f)(4) [Conduct Prejudicial to the Administration of Justice]; and 3.13(c)(2) [Failure to Properly Supervise Attorney's Non-Lawyer Staff].²

III. SANCTIONS

For the violations of the Maine Bar Rules, cited above, that resulted from Mr. Dubois inattention and carelessness in this transaction, the Court ORDERS discipline and sanctions, as follows:

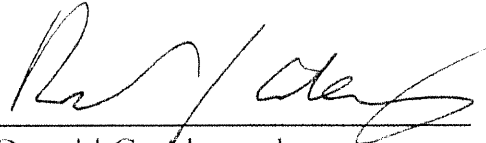
² The Maine Bar Rules, including its Code of Professional Responsibility, are applicable to this proceeding because all events at issue occurred prior to the August 1, 2009, effective date of the Maine Rules of Professional Conduct.

1. By this ORDER, the Court issues a Public Reprimand to Attorney Richard K. Dubois.

2. Bar Counsel may file any further complaints regarding allegations of misconduct by Attorney Richard K. Dubois directly with this Court pursuant to M. Bar R. 7.2(b) when a preliminary review panel, acting pursuant to M. Bar R. 7.1(d)(5), first finds probable cause that misconduct has occurred. This is limited to complaints initially received by the Board on or before January 1, 2011.

Dated: December 28, 2009

FOR THE COURT,

A handwritten signature in black ink, appearing to read "Donald G. Alexander", written over a horizontal line.

Donald G. Alexander
Associate Justice