

STATE OF MAINE

SUPREME JUDICIAL COURT

Docket No. BAR 10-12

BOARD OF OVERSEERS OF THE BAR)
)
 Plaintiff)
 v.)
)
 BERNARD L. WATSON)
 of Parsonsfield, Maine)
 Me. Bar #3946)
 Defendant)

ORDER OF SUSPENSION
M. Bar R. 7.2 (b)

This disciplinary matter is before the Court by the Board of Overseers of the Bar’s information dated June 9, 2010 as filed pursuant to Maine Bar Rule 7.2(b)(1) & (7).

Defendant Bernard L. Watson is from Parsonsfield and has been subject to the Board of Overseers’ administrative suspension from practice since October 20, 2009 due to his non-compliance with the annual fee, registration and continuing legal education requirements of the Maine Bar Rules. At all times relevant to this disciplinary matter, he was an attorney admitted to and engaging in the practice of law in the State of Maine still subject to the Maine Bar Rules.

Based upon their comments at a pre-trial conference on September 24, 2010, and the Court’s resulting Order of that date, the parties have agreed to the following stipulated facts and sanction in this multi-count disciplinary matter:

COUNT #1 – GCF #09-019 (Constance V. Morrison)

Constance V. Morrison, of Alfred filed a grievance complaint against Watson on January 27, 2009. Watson then filed a written response admitting that he had failed to properly handle Ms. Morrison’s deceased husband’s estate.

Watson agrees that he failed to complete that legal work for Morrison and also initially failed to provide Morrison with her stored file materials. After Watson had been notified by Bar Counsel of Morrison’s grievance complaint, he provided her file materials to her new attorney.

At the preliminary Grievance Commission hearing of January 26, 2010, Watson testified and admitted under oath that he had neglected Morrison's legal matter, stating that he "...didn't get it done."

Watson admits that he violated then applicable Maine Bar Rules 3.1(a)(conduct unworthy of an attorney) and 3.6(a)(3)(neglect of a client's legal matter) in his mishandling of Morrison's case.

COUNT #2 – GCF #09-070 (Dawn McAllister)

Dawn McAllister, of Parsonsfield filed a complaint on February 27, 2009 concerning Watson's misconduct.

McAllister had contacted Watson in May 2004 to represent her in a dispute with her brother related to her mother's estate. The only significant asset in that estate was the decedent's home. A Medicaid bill totaling approximately \$101,500.00 was due to be paid from the estate, along with funeral expenses.

Watson had advised McAllister that because the Medicaid claim would have priority over all but funeral expenses, administrative claims, and a secured MSHA claim on the home, that claim would consume all remaining equity in the property, leaving nothing to distribute to the heirs.

McAllister sold the estate's home for approximately \$45,500.00 net proceeds. In the spring of 2006, Watson indicated to McAllister that she should mail the check to him, he would deposit it in his trust account and would then pay the estate's outstanding funeral expense from that amount. Watson failed to pay that funeral bill until being reminded by McAllister to do so later in August of that year.

Due to his frequent absence from Maine for certain periods, McAllister had not always been able to readily contact Watson.

McAllister also learned that Maine Care had not received any monies from the sale of her mother's home, in partial satisfaction of the debt owed to it by the estate. Maine Care's agent was initially unable to reach Watson (who had the estate's money in his trust account) and learned that his law office was no longer located in Limerick, Maine.

The agent eventually found Watson who then contacted McAllister, assuring her that he would prepare an accounting of the monies from the house sale that had been placed in his trust account. Watson indicated that he would do so upon his return to his home in Parsonsfield where his clients' files were located. Watson failed to prepare an accounting, however, contrary to what he had promised. As a result, McAllister and the agent unsuccessfully tried to

contact Watson. McAllister then filed her grievance complaint with the Board alleging that Watson had neglected her legal matter.

Bar Counsel notified Watson of this grievance matter by letter dated March 4, 2009. Watson's written response was due by March 26, 2009 but he failed to respond. By letter dated April 14, 2009, Bar Counsel informed Watson that the Board had not received his response to McAllister's grievance matter. Watson eventually filed a response on May 12, 2009 then initially denying that he had neglected Ms. McAllister's legal matter.

Attorney Watson then contacted Ms. McAllister and apologized for not completing the accounting. He eventually finished the accounting, and disbursed the remaining funds per McAllister's instructions. Watson agrees that the accounting was not completed by him until after he knew McAllister had filed her grievance complaint against him. McAllister and Maine Care later came to an agreement and settled the estate's obligations to Maine Care.

In his May 12, 2009, response to McAllister's grievance, Watson stated that a personal family emergency had distracted and prevented him from being able "... to function properly," i.e. to complete the legal work on McAllister's case or file a response to her grievance.

At that January 26, 2010, Grievance Commission disciplinary hearing, Watson agreed and testified under oath that he "...should have gotten in touch with (Ms. McAllister) at some point and didn't."

He also testified and admitted that he very well could have told McAllister he was going to send a check to Mr. Bolduc (the funeral home), but just lost track of that promise and obligation. Watson also admitted in his testimony and now agrees he should have earlier responded to Bar Counsel's inquiry in McAllister's grievance matter.

Watson also testified and admits that for more than two and one-half years, i.e. from August 3, 2006 to March 16, 2009, he did no legal work on McAllister's matter.

Furthermore, his testimony also confirmed that at the same time that he had neglected and failed to answer McAllister's grievance complaint, he nevertheless then prepared a fee invoice for McAllister dated March 16, 2009, in the amount of \$2,194.65.

Finally, Watson then testified that "... (he) should have done a better job (in the McAllister matter)."

Watson agrees that in the McAllister matter he violated the following then applicable Maine Bar Rules: 2(c)(failure to timely respond to Bar Counsel);

3.1(a)(conduct unworthy of an attorney); 3.2(f)(1)(violation of the Maine Bar Rules); 3.2(f)(4)(conduct prejudicial to the administration of justice); and 3.6(a)(3)(neglect of a client's legal matter).

COUNT #3 – GCF #10-101 (Sua Sponte Complaint)

Due to his failure to properly comply with Maine Bar Rules 6, 10 and 12, Watson was administratively and summarily suspended from practice by the Board of Overseers of the Bar effective October 20, 2009. As a result of that suspension, Watson failed to file the notice affidavit as required under Maine Bar Rule 7.3(i)(2).

On or about February 23, 2010, Watson was notified that his failure to file that affidavit had resulted in Bar Counsel's docketing of a sua sponte grievance complaint against him.

Watson responded by letter of March 8, 2010, admitting he had failed to file that affidavit. He admitted in his testimony at the January 26, 2010, hearing that as of that hearing date, he had not yet filed that affidavit.

On April 21, 2010, Watson finally executed and filed such an affidavit with the Board.

Watson agrees that his conduct in this matter violated the following Maine Bar Rules: 3.1(a)(conduct unworthy of an attorney); 3.2(f)(1)(violation of the Maine Bar Rules); and 7.3(i)(2)(A)(B)(failure to file the required notification affidavit) as well as Maine Rules of Professional Conduct 8.4(a)(violation of the Maine Bar Rules); and 8.4(d)(conduct prejudicial to the administration of justice).

SANCTION

While the Court appreciates Watson's current contrition and admission of his serious professional misconduct, his actions harmed two clients as well as the legal profession and must receive a significant sanction. In that regard, although he states that he currently has no intention to return to the active practice of law, should he later decide to do so it is imperative that the public be protected by the Court's use of the reinstatement hearing process under M. Bar R. 7.3(j). Accordingly, it is HEREBY ordered that effective immediately that Bernard L. Watson shall receive a disciplinary suspension for his violation of the above-stated Maine Bar Rules, as follows:

1. That suspension shall be for six (6) months and one (1) day, such that should Watson decide to return to practice he must file a petition for reinstatement and be subject to M. Bar R. 7.3(j);

2. Prior to filing for reinstatement, Watson must first remove and comply with all deficiencies that caused the Board of Overseers of the Bar to administratively suspend him on October 20, 2009;
3. Watson shall return all of McAllister's client files to her by on or before October 29, 2010; and
4. At any such reinstatement hearing, Watson shall be required to confirm to the appropriate tribunal and Bar Counsel all steps and processes he engaged in and utilized with the Maine Assistance Program (MAP) and/or such other counseling he employed to alleviate his depression that he had testified was involved in his conduct violations.

Finally, Bar Counsel may file a disciplinary information directly with the Court without any Grievance Commission review or hearing concerning any new complaint(s) of professional misconduct allegedly committed by Watson at any time but not received by the Board of Overseers until after the date of this Order.

Date: October 18, 2010

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