STATE OF MAINE

Before the Grievance Commission
Grievance Commission
File No. 93-S-136

BOARD OF OVERSEERS OF THE BAR,

Petitioner

V.

REPORT OF FINDINGS AND
CONCLUSIONS OF PANEL C
OF THE GRIEVANCE COMMISSION

MARTHA J. HARRIS, ESQ.
of Bangor, Maine

Respondent

On August 11, 1994, pursuant to due notice, Panel C of the Grievance Commission conducted a disciplinary hearing open to the public according to Maine Bar Rule 7.1(e)(2), to determine whether grounds existed for the issuance of a reprimand or whether probable cause existed for the filing of an information with respect to alleged professional misconduct of Respondent Martha J. Harris, as described in the petition dated March 18, 1994, filed by Bar Counsel of the Board of Overseers of the Bar.

The Board of Overseers of the Bar was represented by J. Scott Davis, Bar Counsel, and Respondent Martha J. Harris was represented by Malcolm L. Lyons, Esq. An Answer had been duly filed by Respondent.

Prior to the commencement of the hearing, Bar Counsel and Counsel for Respondent agreed without objection to the admission of Exhibits 1, 2, 3, 4, 5, 6, 7 and 8 as attached to the Petition. The complainant in this matter, Linda Voye, was given notice by Bar
Counsel of the hearing, and provided unsworn oral comment to the Panel as to Respondent's conduct in the matter. No testimonial witnesses were presented. The parties - as primarily set forth in the pleadings - have stipulated as to the following facts, and the panel so finds:

**FINDINGS OF FACT**

Respondent was at all times relevant hereto an attorney duly admitted to and engaging in the practice of law in the State of Maine and subject to the Maine Bar Rules.

1. In 1987, Harris was retained by Linda Voye (Voye) to handle a medical malpractice suit.

2. That matter related to possible negligence by St. Joseph's Hospital concerning the drawing of blood gas and the resulting pain in both of Voye's wrists.

3. Harris had only a verbal contingent fee agreement with Voye regarding the amount and payment of her legal fees in this matter.

4. The case proceeded to hearing before a medical screening panel in 1988, and the panel issued a unanimous finding of no negligence.

5. As a result, Voye reluctantly agreed in March of 1990 to have this particular litigation dismissed.

6. Although the agreement by Harris was that there would be no fee unless there was a recovery, no written form of contingency
fee agreement was executed between Harris and Voye.

7. Although Voye claims that she was completely surprised when Harris presented her with a bill for her costs and disbursements, she paid a total of $85.00 on the outstanding disbursements. Harris wrote off the remainder of the disbursement bill because she realized that Voye could not pay because of her financial situation.

8. Voye was under the impression that if she recovered nothing from her malpractice suit, she would owe nothing.

9. Around the same time, Harris was hired by Voye to handle a back injury matter apparently involving the State of Maine Department of Public Safety.

10. In the spring of 1987, Voye received a back injury which she indicated to Harris was caused while attending a driving school by a device known as a convincer.

11. Subsequent to her injury she was treated by a Dr. Bruns, a chiropractor.

12. By letter dated May 19, 1993, Voye filed a grievance complaint with the Board alleging that she had not heard from Harris concerning the back injury suit.

13. Voye alleges that she had tried numerous times to contact Harris, that Harris would not return her calls and that it had been four years since she last heard from Harris.

14. Voye was concerned that she had an unpaid medical bill from Dr. Bruns who had agreed to wait for her to recover in settlement with the insurance company.
15. That bill had gone into a collection agency because Harris would not respond to calls from the doctor's office.

16. Voye claims that it was not until she read Harris' reply letter of June 29, 1993 that she realized Harris had purportedly dropped the back injury case.

17. Voye claims that up until this time she thought that Harris was pursuing her back injury case.

18. In June of 1993 Voye wrote to Harris and terminated her representation and asked for a copy of her file. Her letter was dated June 24, 1993, and she had not yet seen Harris' response to her complaint.

19. Subsequently, Bar Counsel corresponded with Harris by letter dated July 1, 1993 and asked her several questions relating to her alleged communications with Voye.


22. Harris did return Voye's file to her on July 6, 1993.

23. Although initially Harris had filed a tort claim against the State of Maine in the belief that the convincer was owned by the State of Maine, she was informed that it was privately owned.

24. After receiving this information in 1987, Harris discussed with Voye the fact that because the convincer was not owned by the State of Maine, there would be fewer pro cedural
obstacles in proceeding with her claim. Voye understood from this conversation that it would be an easier case to win because the State did not own the convincer.

25. No complaint was ever filed in this case, and by the time Voye terminated Harris' representation in June of 1993 the statute of limitations had run.


27. Harris likewise never informed Dr. Bruns that she was no longer pursuing the back injury case.

28. Dr. Bruns' office manager had made inquiries to Harris' office but was not notified that Harris was no longer representing Linda Voye.

29. On September 6, 1990 after a written request for information on the status of the case, Dr. Bruns' office manager was informed that the case was still pending.

30. On July 26, 1991, Dr. Bruns' office manager was again advised by Harris' office that the matter was still in litigation.

31. Later requests from Dr. Bruns for information on the case were ignored by Harris.

32. The parties agree that Respondent's conduct was in violation of M. Bar R. 3.1 (a), 3.2(f)(1), 3.6(a)(2),(3) and 8(d),(e).

33. Respondent has no prior disciplinary record.
CONCLUSION

This panel concludes, and Respondent admits that she failed to keep her client apprised of the status of her case and that her office staff misrepresented the status of the case to her client's medical care provider.

The panel concludes that the appropriate disposition of this complaint is that Respondent be, and she hereby is reprimanded for violating the Maine Bar Rules as established in the Findings of Fact discussed in this Report.

Dated this 11th day of August, 1994

Panel C of the Grievance Commission
David B. Soule, Jr. Esq.

Jon S. Oxman, Esq.

Marc V. Schnur