STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

STIPULATED REPORT of
FINDINGS AND ORDER of
Panel A of the GRIEVANCE
COMMISSION

M. Bar R. 13(e)


At the hearing, Attorney Juskewitch was present and represented by Attorney Malcolm L. Lyons, and the Board was represented by Bar Counsel J. Scott Davis. Complainants Gerard and Lucy Poole were not in attendance at the hearing but had earlier been provided by Bar Counsel Davis with a copy of the proposed Report and Gerard Poole indicated his understanding of the sanction set forth within that proposed Report. Prior to that hearing date, the parties submitted that stipulated proposed sanction Report for this Panel's review and consideration.

Having reviewed the stipulated, proposed findings as presented by counsel, the Panel makes the following disposition:
FINDINGS

Respondent Stephen A. Juskewitch, Esq. of Ellsworth, Maine has been at all times relevant hereto an attorney duly admitted to and engaged in the practice of law in the State of Maine and subject to the Maine Bar Rules and the Maine Rules of Professional Conduct. He was admitted to practice in Maine in 1976, and is currently a sole practitioner with a law office located in Ellsworth, Maine.

On or about July 21, 2014 Gerard and Lucy Poole filed a grievance complaint against Juskewitch. That complaint was based upon the manner in which he repeatedly improperly contacted Lucy concerning the position(s) she was then asserting regarding her interest in real estate located at 6 Hardie Lane in Stonington, Maine.

The relevant chronological history regarding the Pooles' complaint matter is set forth as follows:

March 13, 1997 - By Quitclaim Deed, William Hardie conveyed 6 Hardie Lane to his children, James Hardie & Lucy Poole.

June 24, 2013 - Lucy Poole executed a notarized document "relinquishing and removing (herself) from the deed pertaining to the estate left by William Hardie (as described immediately above)." In that document, Lucy emphatically stated that "under no circumstances are (Laurice Hardie, Troy Hardie, James Hardie or William Hardie, Jr.) to contact (her) concerning the house and property..."

July 3, 2013 - Lucy issued a similar but more informal letter again confirming that she was then "relinquishing (her) share on the William James Hardie Sr. estate."

March 10, 2014 - As the attorney for Lucy's brother, James Hardie, Juskewitch wrote to Lucy outlining the steps and actions he claimed that she needed to take to
legally accomplish what she had attempted to do by her June 24, 2013 notarized statement and confirmed in her July 3, 2013 letter. Juskewitch therein tried to provide Lucy with his belief of the means to accomplish what she had intended to accomplish.

In that letter, however, Juskewitch never stated that he was in fact the attorney for James Hardie. Instead, his letter provided Lucy with unsolicited legal advice, outlining actions to be taken by Lucy that would ultimately directly benefit James Hardie.

Juskewitch now agrees and admits that such action by him was improper and in violation of M. R. Prof. Conduct 4.3(dealing with an unrepresented person); and 8.4(a)(d)(conduct prejudicial to the administration of justice).

March 11, 2014 - Gerard Poole immediately responded in writing to Juskewitch, then confirming Lucy's mental and physical disabilities, and directing Juskewitch to cease his harassment of her.

March 17, 2014 - Despite Gerard's specific request and directive, Juskewitch followed up with another letter to Lucy, again pressuring her with the "effective (manner) to accomplish (her) intent to be relieved of (her) obligations and interest in the property." Juskewitch now agrees that although he had included additional intended "clarifying language" in that letter, his overall conduct in sending that letter to Lucy violated M. R. Prof. Conduct 4.3; and 8.4(a)(d).

July 18, 2014 - Juskewitch corresponded again with Lucy, this time claiming that she had made improper representations in her United States Department of Agriculture (USDA) Rural Development loan application. Juskewitch sent a copy of that letter to the USDA. He now agrees that due to his current understanding of the
interpretation of the phrase "obtaining an advantage in a civil matter" in the Rule, this letter by him violated M. R. Prof. Conduct 3.1(b)(reporting or threatening to report misconduct to an administrative authority, solely to obtain an advantage in a civil matter).

At the time of his actions, Juskewitch became aware that Lucy suffered from significant and incapacitating medical problems, and he now acknowledges he took advantage of her vulnerable state.

As referenced several times by complainants Lucy and Gerard Poole, Juskewitch engaged in repetitive improper conduct and inappropriate action to try to obtain Lucy Poole’s signature on documents which would ultimately benefit his client, James Hardie, to the disadvantage of Lucy Poole.

Juskewitch did so without properly informing Lucy that: a). he was not her attorney; b). instead, he was in fact the attorney for James Hardie, whose interests were directly adverse to hers; and c). Hardy would benefit to Lucy’s disadvantage if she followed Juskewitch’s “advice.” Juskewitch admits that his conduct violated M. R. Prof. Conduct 4.3; and 8.4(a)(d).

CONCLUSION AND SANCTION

The Maine Rules of Professional Conduct specifically require attorneys to uphold their responsibilities as officers of the court. Accordingly, based upon Attorney Juskewitch’s improper actions and lack of appropriate professional judgment, the Panel finds that he violated M. R. Prof. Conduct 3.1(b); 4.3; and 8.4(a)(d)(conduct prejudicial to the administration of justice). The Panel notes that Attorney Juskewitch has taken responsibility for his behavior. He has acknowledged the wrongfulness of his actions and expressed remorse to the Panel for his violations
of those particular portions of the Maine Rules of Professional Conduct. Bar Counsel has confirmed to the Panel that although Juskewitch has no prior disciplinary record on file with the Board, he was publicly sanctioned in 2010 and 2011 with two dismissals with warnings issued upon him after hearings with findings being issued that he engaged in minor professional misconduct in two separate and unrelated matters.

The Panel further notes that the purpose of bar disciplinary proceedings is not punishment, but rather the protection of the public from attorneys who have demonstrated that they are unable to properly discharge their professional duties. Since the evidence supports a finding and Attorney Juskewitch agrees that he did in fact violate the above-referenced portions of the Maine Rules of Professional Conduct, the Panel finds that a public reprimand serves those purposes.

Therefore, the Panel accepts the agreement of the parties, including Attorney Juskewitch's separately executed waiver of the right to file a Petition for Review, and concludes that the appropriate disposition of this case is a Public Reprimand. Pursuant to M. Bar R. 13(e)(10)(C) the Panel hereby issues that Reprimand to Steven A. Juskewitch, Esq.

Date: July 20, 2015

M. Ray Bradford, Jr., Esq.
Panel Chair
Sarah McPartland-Good, Esq.
Panel Member
Milton R. Wright
Public Member