State of Maine

Board of Overseers of the Bar

GCF# 15-383

BOARD OF OVERSEERS OF THE BAR
Petitioner

v.

COLLEEN A. MATHEWS
of Sullivan, NH
Me. Bar #4234
Respondent

REPORT OF FINDINGS
GRIVANCE COMMISSION
PANEL D
M. BAR R. 13

INTRODUCTION

On October 3, 2016, with due notice, panel D of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 13(e) concerning misconduct by Respondent Colleen A. Mathews. On August 2, 2016, Assistant Bar Counsel Alan P. Kelley filed with the Board of Overseers of the Bar [Board] a Disciplinary Petition. On that same date, Bar Counsel served that Disciplinary Petition on Ms. Mathews [Mathews] requiring her to answer the Petition within twenty-one days.

A letter from Bar Counsel dated August 2, 2016, specifically warned Mathews that failure to file an answer to the Disciplinary Petition within 21 days from the date of service would mean that the misconduct alleged in the Petition “shall be taken as admitted, but you may be heard on the question of sanctions.” Although Mathews did not answer the Board’s Petition, she did appear at the October 3, 2016 public disciplinary hearing.
**Findings**

Respondent Colleen A. Mathews of Sullivan, New Hampshire, was, until the imposition of an administrative suspension, at all times relevant hereto an attorney duly admitted to and authorized to engage in the practice of law in the State of Maine and/or a suspended Maine Attorney, in all events and respects subject to the Maine Bar Rules and the Maine Rules of Professional Conduct.

Mathews was admitted to the Maine bar in 2007 and is currently subject to an administrative non-disciplinary suspension. Effective October 15, 2015, Ms. Mathews was administratively suspended by the Board due to her failure to comply with the annual registration requirement of M. Bar R. 4(a), and the continuing legal education credit hours requirement of M. Bar R. 5(a). The Board filed a grievance complaint against Mathews on November 24, 2015, as a result of Mathews’ subsequent failure to file the required affidavit of compliance required by M. Bar R. 4(k)(8) following her summary administrative suspension. Mathews failed to file a response in defense of her actions. Such failure to respond to Bar Counsel’s inquiries violated M. R. Prof. Conduct 8.1(b).

On June 9, 2016, a panel of the Grievance Commission reviewed this case and found probable cause to believe that Mathews had engaged in misconduct subject to sanction under the Maine Bar Rules. Thus, the Grievance Commission panel authorized Bar Counsel to prepare and present a formal disciplinary petition before a different panel of the Grievance Commission.

**Conclusions**

Mathews violated Maine Bar Rule 4(k)(8) and Maine Rules of Professional Conduct 8.1(b) and 8.4(a)(d). As a consequence of her administrative suspension, she is not currently a licensed member of the Maine Bar, nor has
she completed a change of status to inactive or withdrawn. The Maine Bar Rules provide that the purpose of bar disciplinary proceedings is not punishment, but rather, the protection of the public from attorneys who, by their conduct, have demonstrated that they are unable to properly discharge their professional duties. Among the factors to be considered in imposing sanctions are: the duty violated, the lawyer’s mental state, the actual or potential injury caused by the lawyer’s misconduct and the existence of any aggravating or mitigating circumstances. See ABA Standards for Imposing Lawyer Sanctions, 1991 (ABA Standards).

The first factor to be considered for sanctions under the ABA Standards is to determine what duty has been breached. The Maine Rules of Professional Conduct and the Maine Bar Rules require attorneys to uphold their responsibilities to clients and the courts. Mathews violated her duties to the legal system by failing to complete the annual registration requirements in 2015 and by failing to file the required notification affidavit once she was administratively suspended.

Ultimately, Mathews did file the affidavit as contemplated by M. Bar R. 4(K), indicating that she had not been practicing law, and that she had no actual clients at the time of her administrative suspension. As a result, it appears that there was no actual injury to any client, or the public resulting from Mathews’ delay in filing her affidavit.

In sum, the evidence of misconduct supports the reviewing Panel’s findings, and Colleen A. Mathews agrees that she did in fact violate the Maine Bar Rules and the Maine Rules of Professional Conduct. However, the Panel agrees that Mathews’ misconduct was minor; that there was little or no injury to a client, the public, the legal system, or the profession; and that there is little likelihood of repetition by Mathews. Accordingly, the Panel concludes that an admonition is a proper sanction to impose upon Mathews.

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Therefore, the Panel concludes that the appropriate disposition of this case is the issuance of an **ADMONITION**, which is now hereby issued and imposed upon Colleen A. Mathews pursuant to M. Bar R. 13(e)(10)(B).

Dated: 10/7/2016

James A. McKenna III, Esq., Panel Chair
Teresa M. Cloutier, Esq.
Emilie van Eghen, Public Member