On September 13, 2017, with due notice and pursuant to Maine Bar Rule 13(e)(7)(D), a Panel of the Grievance Commission conducted a public disciplinary hearing concerning misconduct by the Respondent, James R. McDaniel II, Esq. The proceeding was commenced by Bar Counsel’s March 17, 2017 filing of a Disciplinary Petition. Prior to the scheduled hearing date, the parties notified the Clerk that they had negotiated a proposed settlement of the disciplinary matter.

At the September 13, 2017 stipulated hearing, the Board was represented by Aria Eee, Deputy Bar Counsel and Attorney McDaniel, acting pro se, appeared telephonically. The Complainant, Roney Temor, was also present for the disciplinary hearing. Prior to that date, the parties had submitted a stipulated, proposed sanction Report for the Grievance Commission review and consideration.

Having reviewed the agreed, proposed findings as presented by counsel, the Grievance Commission makes the following disposition:
FINDINGS

Respondent James R. McDaniel II, Esq. (McDaniel) of Dover, NH has been at all times relevant hereto an attorney duly admitted to and engaging in the practice of law in Maine. As such, he is subject to the Maine Bar Rules and the Maine Rules of Professional Conduct (M.R. Prof. Conduct). Admitted to the Maine Bar in 2010, McDaniel maintains a solo practice in New Hampshire concentrating on criminal and family law matters. McDaniel is also licensed in New Hampshire and Michigan.

In July 2016, Roney Temor, (Temor) filed a grievance complaint detailing his May 2015 retention of McDaniel for representation with post-divorce matters then pending in Maine. Following their initial meeting, McDaniel presented Temor with a “flat fee” agreement citing incorrectly to the New Hampshire Professional Conduct Rules. Temor executed that Agreement and by June 2015, had paid McDaniel a $2600.00 fee.

According to Temor’s complaint, McDaniel neglected the family matter, failed to communicate and billed excessively for the legal work he performed. While in his initial response to the complaint McDaniel contended that he adequately performed the work, communicated with the client, and fully earned his fees, he now acknowledges that there were problems which arose during the representation. McDaniel attributes some of those problems to the demands of his solo practice as well as the difficult attorney-client relationship with Temor.

In July 2015, Mr. Temor discharged Attorney McDaniel. The District Court subsequently granted McDaniel’s Motion to withdraw from the representation. Not long following his withdrawal, McDaniel and Temor engaged in email
exchanges related to the June 2015 family matters hearing, McDaniel’s final bill and Temor’s stated intention to complain to state regulatory agencies.

In addition to the grievance complaint against McDaniel, Temor filed a companion Petition for Fee Arbitration. After a November 2016 hearing before the Fee Arbitration Commission, during which time McDaniel and Temor each testified, the Commission determined that McDaniel had not earned some of the fees he previously charged his former client.

Specifically, prior to Temor’s family matters hearing, McDaniel failed to conduct discovery; failed to prepare his client for testimony, and failed to prepare claims and/or defenses on Temor’s behalf. In that regard, McDaniel’s failures constituted violations of M. R. Prof. Conduct 1.3 [diligence]; 1.4(a)[communication]; and 1.5(a) [excessive fee]. McDaniel agrees that he engaged in some professional misconduct and that he has undertaken remedial measures geared toward avoiding such future occurrences.

Ultimately, the Fee Arbitration Commission issued a decision awarding Temor a $792.00 reimbursement of the fees he previously paid to McDaniel. That reimbursement was made by McDaniel in a timely fashion. As required by that Fee Commission decision, McDaniel returned the requisite amount of funds to Temor.

**CONCLUSION AND SANCTION**

The Maine Rules of Professional Conduct specifically require attorneys to uphold their responsibilities to clients and the courts. The Grievance Commission notes that Attorney McDaniel has taken responsibility for his errors
in the representation of Mr. Temor. At the disciplinary hearing, McDaniel expressed his remorse for his violations of the Maine Rules of Professional Conduct.

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. Since the evidence supports a finding and McDaniel agrees that he did in fact violate the Maine Rules of Professional Conduct, the Grievance Commission finds that a public reprimand serves those purposes.

Therefore, the Grievance Commission accepts the agreement of the parties, including Attorney McDaniel’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** to James R. McDaniel II, Esq. which is now hereby issued and imposed upon him pursuant to M. Bar R. 21(b)(5).

Date: 9/13/17

Vendean V. Vafiades, Esq.
Chair
Stephanie Anderson, Esq.
Franklin D. Gooding
(layperson)