On September 8, 2017, Panel C of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 13(e) concerning misconduct by the Respondent, Andrew L. Broaddus, Esq. This disciplinary proceeding had been commenced by the filing of a Disciplinary Petition by the Board of Overseers of the Bar (the Board) on May 10, 2017.

PROCEDURAL HISTORY

This matter came before the Panel for a hearing upon the Petition and the Answer to the Petition in this action. The Answer to the Petition admitted the averments of the Petition, and so the hearing held by the Panel focused solely upon the appropriate sanction.

Due notice of the hearing, held on September 8, 2017, was given and acknowledged, and all parties agreed to the composition of the Panel, which consisted of Robert S. Hark, Esquire as Chair, Justin D. LeBlanc, Esquire and Richard P. Dana, CPA.

The Board was represented by Bar Counsel, J. Scott Davis; Respondent appeared, pro se. Present in person was the Complainant.
The Panel heard testimony from the Complainant and the Respondent and admitted Joint Exhibits 1, 2, 3, and 4.

At the Close of the evidence, both Bar Counsel and Respondent were heard orally on the subject of the appropriate sanctions. At that point, the public hearing was closed and the Panel proceeded to deliberate in private.

FINDINGS

The allegations of the Petition, which were admitted, entailed violations of the Maine Rules of Professional Conduct, specifically, Rule 1.1 (competence), Rule 1.3 (diligence) and Rule 1.4 (communication) and Rule 8.4 (misconduct).

The kernel of the allegations of misconduct consisted of, first, failing to diligently provide timely legal services to the complainant by failing to draft a will for many months after it was requested (the Respondent testified that he would normally respond in a matter of weeks); second, lack of competence, in not having the will properly witnessed, and having the will notarized improperly. There also seems to have been no discussion with the client about whether her previous will, executed in New York after the death of her husband, would still have been enforceable and sufficient to be probated here in Maine.

Subsequent to the filing of the complaint by the Complainant, the Respondent rectified the matters of competence by drafting and supervising the execution of a new will.

All of this having been admitted, the task before the Panel is to determine the appropriate sanction.

The standards for the appropriateness of a reprimand are found in the Annotated Standards for Imposing Lawyer Sanctions published by the American Bar Association, made applicable by Bar R. 21(c), and specifically in section 7.3 of those standards. This standard states:
Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

There is no question that the violation alleged and found, pertaining to diligence and competence, caused at least potential injury to the Complainant. Although she is currently alive and well, at her advanced age, there was certainly a risk of potential injury to her or to her successors in interest.

Section 9.22 lists those factors which may be considered in aggravation. Among the aggravating factors that may be considered here are: a pattern of misconduct; substantial experience in the practice of law; and vulnerability of the victim. Although the evidence is insufficient here to establish a pattern of misconduct, this client was 86 years old, and notwithstanding that she seems to be very sprightly and alert for her age, any client of that age should be deemed to be vulnerable. The discussion of standard 9.22 states that "substantial years of practice can be considered aggravating factor under standard 9.22(i) because a lawyer with a great deal of experience should know better than to engage in misconduct." In this instance, the respondent has been practicing law for 37 years.

Section 9.32 lists factors that may be considered in mitigation. Among these factors one finds "timely good-faith effort to make restitution or to rectify consequences of misconduct," and "full and free disclosure to disciplinary board or cooperative attitude toward proceedings." The panel finds that the respondent did make a timely good-faith effort to rectify the consequences of his misconduct, and has been cooperative with respect to these proceedings.

Section 4.43 states, "Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client." Here the respondent has admitted that while he normally responds to a client seeking a will within a matter of
weeks, he allowed many months to pass before responding to the Complainant’s phone call asking about the will.

The panel also finds that the respondent’s practices concerning the execution of wills is considerably short of best practices.

Further, *a propos* the issue of competence, the Respondent’s statements about his practice of drafting self-proved wills only *in cases where there is a likelihood of challenge* is particularly troubling. Putting an attorney in the position of foreseeing which sets of circumstances might create a risk of challenge to a will assumes that the attorney is always aware not only of the *existing* facts and circumstances, but also of circumstances *that may occur in the future*. The majority of attorneys in Maine utilize self-proved wills as the norm.

**CONCLUSION AND SANCTION**

Having heard and considered the evidence, the Panel finds that the sanction of a reprimand is called for here. It is therefore

**ORDERED**

that the Respondent, Andrew L Broaddus, shall be and hereby is *reprimanded* for the conduct described herein.

Date:  September 19, 2017

[Signature]
Robert S. Hark, Esq.
Chair, Panel C

Date:  September 21, 2017

[Signature]
Justin D. LeBlanc, Esq.

Date:  9/29/2017

[Signature]
Richard P. Dana, CPA