STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

Petitioner

v.

MARY B. DEVINE, Esq.
of New Gloucester, ME
Me. Bar No. 002845

Respondent

Docket No. GCF #17-299

STIPULATED REPORT OF FINDINGS AND ORDER OF Panel D OF THE GRIEVANCE COMMISSION M. Bar R. 13(e)

On May 9, 2018, with due notice, Panel D of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 13(e), concerning misconduct by the Respondent, Mary B. Devine, 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 December 13, 2017.

At the hearing, Attorney Devine appeared pro se and the Board was represented by Bar Counsel J. Scott Davis.

Prior to the scheduled hearing date, the parties notified the Clerk that they had negotiated a proposed settlement of the disciplinary matter, with that proposed sanction report being submitted for Grievance Commission Panel D’s review and consideration. The complainant, Betsey J. Leslie, had been provided with a copy of the parties’ proposed Stipulated Report and was properly notified of the hearing but was not present at the proceeding.

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

Respondent Mary B. Devine, Esq. (Devine) of New Gloucester, Maine has been 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. Attorney Devine was admitted to the Maine Bar in 1983 and she is currently in a two-person law firm.

On August 1, 2017, Betsey J. Leslie, of New Gloucester, Maine filed her grievance complaint against Attorney Devine, and Attorney Devine then filed her initial response on or about September 4, 2017.

During the course of the Board’s investigation, Ms. Leslie and Attorney Devine were afforded respective opportunities for rebuttal and supplemental responses, resulting in a fully developed investigation, pursuant to M. Bar R. 2(b)(2) & 13(b).

As a result, on or about January 9, 2017 a panel of the Grievance Commission reviewed Attorney Devine’s actions in this matter, and found probable cause to believe that she had engaged in misconduct subject to sanction under the Maine Bar Rules. Therefore, the Grievance Commission panel directed Bar Counsel to prepare and present a formal charges disciplinary petition before a different panel of the Grievance Commission.

Betsey Leslie complained about Attorney Mary Devine’s lack of diligence in her handling of the probate of Bernice Ann Gelberg’s estate, being Leslie’s mother.

Gelberg’s date of death was April 1, 2017. Attorney Devine had prepared Gelberg’s will.
Ms. Leslie and her sister, Holly Gelberg, first met with Attorney Devine on April 6, 2017. However, Attorney Devine did not timely complete her handling of the Gelberg Estate until early August after numerous inquiries by Ms. Leslie. Attorney Devine agrees that she failed to adequately communicate with Ms. Leslie and did not properly respond to her inquiries.

In her response letter of September 4, 2017 to Bar Counsel, Attorney Devine agreed and acknowledged that the probate of the Gelberg Estate had been delayed as a result of her failure to move the matter forward diligently. Attorney Devine also acknowledged and agreed that in her handling of the probate of that estate she violated each of the following portions of the Maine Rules of Professional Conduct: Rule 1.3 (diligence); Rule 1.4(a) (communication); and Rule 8.4(d) (misconduct prejudicial to the administration of justice).

**CONCLUSION AND SANCTION**

The Maine Rules of Professional Conduct specifically require attorneys to uphold their responsibilities to clients and the courts. The panel notes that Attorney Devine has taken responsibility for her transgressions. At the disciplinary hearing, Attorney Devine expressed her remorse for her violations of the above-referenced sections 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. Pursuant to M. Bar R. 13(e)(8) the Panel was informed that Attorney Devine had been privately warned in 1995 and in 2003 for two minor violations of the then applicable Maine Code of Professional Responsibility, with that latter
matter involving her inattention and failure to communicate as occurred in Ms. Leslie's matter. Since the evidence supports a finding and Attorney Devine agrees that she did in fact violate the earlier referenced sections of the Maine Rules of Professional Conduct, the Panel has analyzed the proper sanction factors warranted under M. Bar R. 21. As a result, upon that analysis for imposing a proper sanction under M. Bar R. 21(c), the Panel finds that a REPRIMAND must be issued against Attorney Devine under M. Bar R. 21(b)(5).

Therefore, the Panel accepts the agreement of the parties, including Attorney Devine's separately executed waiver of the right to file a Petition for Review, and concludes that the appropriate disposition of this case is a **REPRIMAND** to Mary B. Devine, Esq. which is now hereby issued and imposed upon her pursuant to M. Bar R. 13(e)(10)(C) and 21(b)(5).

Date: May 9, 2018

James A. McKenna III, Esq.
Panel Chair

Teresa M. Cloutier, Esq.
Panel Member

Emile van Eeghen
Public Member