

STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

BOARD OF OVERSEERS OF THE BAR

Docket No. GCF #17-138

Board of Overseers of the Bar)	
Petitioner)	STIPULATED REPORT OF
v.)	FINDINGS AND ORDER OF
)	PANEL B OF THE
Suzanne Dwyer-Jones, Esq.)	GRIEVANCE COMMISSION
of York, ME)	M. Bar R. 13(e)
Me. Bar No. 008638)	
Respondent)	

On November 8, 2019 with due notice, Panel B of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 13(e), concerning misconduct by the Respondent, Suzanne Dwyer-Jones, Esq. The Board of Overseers of the Bar (the Board) commenced this proceeding by the March 20, 2019 filing of a Stipulated Disciplinary Petition. The initial sanction hearing occurred on August 28, 2019. While the parties were then in agreement, the Commission declined to accept their negotiated order, without the addition of a mentoring component. Following a period of time for further negotiation and scheduling, the final hearing was set for November 8.

At that hearing, Attorney Dwyer-Jones was represented by counsel, Attorney Charles W. Smith, and the Board was represented by Bar Counsel Aria Eee. Although the Clerk provided complainant, John A. Penta, with notice of this action, he did not appear.

Prior to the scheduled hearing date, the parties notified the Clerk that they had negotiated a proposed settlement of the disciplinary matter. The proposed sanction report was submitted to the Clerk for the Commission's advanced



review and consideration. Bar Counsel also provided Mr. Penta with a copy of the parties' proposed Stipulated Report in advance of the stipulated hearing.

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

FINDINGS

Respondent Suzanne Dwyer-Jones, Esq. (Attorney Dwyer-Jones) has been at all times relevant hereto an attorney duly admitted to and engaging in the practice of law in the State of Maine. As such, Attorney Dwyer-Jones is subject to the Maine Bar Rules and the Maine Rules of Professional Conduct (M.R.P.C.). Attorney Dwyer-Jones was admitted to the Maine Bar in 1998 and she is currently practicing in a small York County firm.

According to the parties' stipulations, the Panel finds the following relevant facts:

On March 29, 2019, John A. Penta filed a complaint against Attorney Dwyer-Jones regarding her personal and professional conduct. Contemporaneously with his Maine complaint filing, Mr. Penta complained to the Massachusetts Bar about Attorney Dwyer-Jones' alleged misconduct.

Attorney Dwyer-Jones filed a response to the Maine grievance matter, denying any professional misconduct. She subsequently filed a response to the Massachusetts action.

As it related to the underlying proceeding, Mr. Penta retained Attorney Dwyer-Jones for a criminal case then pending in the Lowell District Court in

Massachusetts. There was a \$1,000 flat fee agreement between Attorney Dwyer-Jones and Mr. Penta governing the representation.

At that time however, Attorney Dwyer-Jones's Massachusetts license was administratively suspended for her failure to register with that jurisdiction. Because she was apparently unaware of her suspension, Attorney Dwyer-Jones did not initiate a request to have her license reinstated with the Massachusetts Bar until December 30, 2016. Thus, by that time she was scheduled to appear on Mr. Penta's behalf, she was not properly licensed, a fact Attorney Dwyer-Jones concedes. The Massachusetts Bar subsequently reinstated Attorney Dwyer-Jones's license on January 18, 2017.

Due to the Massachusetts Bar's investigation, Maine Bar Counsel stayed the Penta complaint matter until Massachusetts completed its work. Following continued interaction with Maine Bar Counsel, Attorney Dwyer-Jones ultimately acknowledged that it was improper for her to have accepted the new representation of Mr. Penta. In doing so, Attorney Dwyer-Jones agrees that she engaged in professional misconduct, specifically M. R. Prof. Conduct 1.4[communication with clients], and 8.4(d)[prejudicial conduct]. Attorney Dwyer-Jones further agrees that on occasion, her interactions with Mr. Penta were too informal, and exceeded the bounds of suitable attorney/client communications.

The Maine Rules of Professional Conduct specifically require attorneys to uphold their responsibilities to clients and the courts. Attorney Dwyer-Jones agrees that she violated her duties to comply with those Rules.

CONCLUSION AND SANCTION

The Panel notes 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. Since the evidence supports a finding and Attorney Dwyer-Jones agrees that she did in fact violate the Maine Rules of Professional Conduct, the Grievance Commission must now issue an appropriate sanction. Pursuant to M. Bar R. 13(e)(6)(8), prior to imposing a sanction, the Commission has considered the existence or absence of any prior sanction record.

The Commission relies on Maine Bar Rule 21(c) for guidance as to the proper factors to consider and apply in the issuance of an appropriate disciplinary sanction. Maine Bar Rule 21 states as follows:

- (c) Factors to be Considered in Imposing Sanctions. In imposing a sanction after a finding of lawyer misconduct, the Single Justice, the Court, or the Grievance Commission panel shall consider the following factors, as enumerated in the ABA Standards for Imposing Lawyer Sanctions:
 - (1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
 - (2) whether the lawyer acted intentionally, knowingly, or negligently;
 - (3) the amount of the actual or potential injury caused by the lawyer's misconduct; and
 - (4) the existence of any aggravating or mitigating factors.

In this matter, Attorney Dwyer-Jones agrees that her misconduct violated duties that she owed to her client and to the profession. However, the Commission does not find that Attorney Dwyer-Jones acted with the intent to harm her client's interests.


Regarding aggravating factors, Attorney Dwyer-Jones has received prior discipline and she has substantial experience in the practice of law. In mitigation, Attorney Dwyer-Jones has admitted her misconduct, has expressed remorse for that misconduct and has been cooperative throughout the investigation and prosecution of this matter. She also refunded a substantial part of Mr. Penta's legal fees.

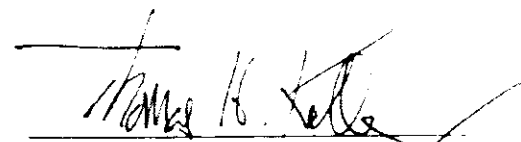
Taking all of the above factors into consideration, and consistent with the analysis outlined in M. Bar R. 21(c), the Commission finds that a Public Reprimand is the appropriate sanction to address the misconduct by Attorney Dwyer-Jones. The Panel also finds that it is appropriate for Attorney Dwyer-Jones to continue the behavioral health counseling she has voluntarily undertaken and for there to be formal law office management mentoring by Attorney Linda A. Malloy. The mentoring period shall last one year from the effective date of this order.

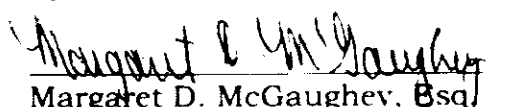
Accordingly, the Commission accepts the agreement of the parties, including Attorney Dwyer-Jones' separately executed waiver of the right to file for a Petition for Review, and concludes that the appropriate disposition of this case is a Reprimand to Suzanne Dwyer-Jones, Esq. which is now hereby issued and imposed upon her pursuant to M. Bar R. 13(e)(10)(C) and 21(b)(5).

Date:

4/18/19


Jud Knox
Public Member


Thomas H. Kelley, Esq.
Panel Chair


Margaret D. McGaughey, Esq.
Panel Member