

STATE OF MAINE

SUPREME JUDICIAL COURT

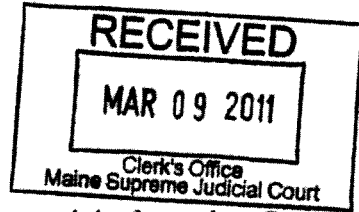
Docket No. BAR-10-4

BOARD OF OVERSEERS OF THE BAR )  
Plaintiff )

v. )

BRIAN AROMANDO )  
of Ogunquit, ME )  
Me. Bar# 9897 )  
Defendant )

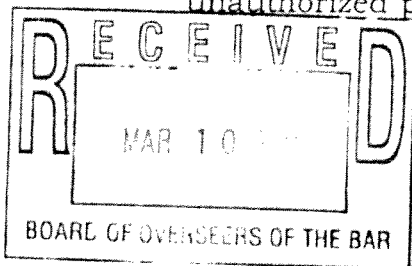
**AMENDED**  
**DISCIPLINARY ORDER**  
**M. Bar R. 7.2(b)**



On February 25, 2011 a disciplinary hearing occurred before the Court concerning six (6) separately filed grievances against former attorney Brian Aromando. The Board of Overseers of the Bar was represented by Bar Counsel J. Scott Davis, and Aromando was present and represented by Attorney Charles W. Smith, Jr. As a result of counsel's agreement and stipulation to the significant factual issues, testimony was presented by Defendant Aromando and comments made by counsel to confirm the appropriateness of the agreed proposed sanction to be imposed by the Court for Aromando's many instances of serious professional misconduct.

**FINDINGS**

1. During much of the initial time relevant hereto, Defendant Brian Aromando (Aromando) of Ogunquit, County of York, State of Maine was an attorney duly admitted to and engaging in the authorized and then unauthorized practice of law in the State of Maine. In any event, at all



times he was subject to the Maine Bar Rules and/or the Maine Rules of Professional Conduct.

2. Aromando was admitted to the Maine bar in 2005, but became administratively suspended by the Board on October 20, 2009. That suspension occurred due to Aromando's failure to comply with his annual registration, fee payment and continuing legal education (CLE) requirements under the Maine Bar Rules.
3. While licensed, Aromando maintained a solo practice in Ogunquit, Maine.
4. On September 4, 2009, James Moe (Moe) filed a grievance complaint against (then) attorney Aromando. The basis for Moe's complaint concerned Aromando's neglect of Moe's legal matter, lack of communication and his failure to return Moe's file or any of his unearned \$1,500.00 legal fee. Aromando never responded to that complaint as requested and directed by Bar Counsel's docketing and notification letter of September 10, 2009. His conduct violated then applicable M. Bar R. 2(c), 3.2(f)(i) and M. R. Prof. Conduct 8.1(b). After initially failing to comply with the Fee Arbitration Commission's November 20, 2009 Award decision ordering that refund, on March 5, 2010 Aromando returned the \$1500.00 fee to Moe.
5. On December 2, 2009, Carol Lovejoy (Lovejoy), the York County Register of Probate, filed a grievance complaint against Aromando. Lovejoy's complaint alleged that Aromando had failed to make

payments owed to that court concerning two cases in late 2008 and early 2009. The Probate Court had to subsequently bill Aromando for his failure to pay those fees. The court then tried repeatedly to contact Aromando with no success. Ultimately, the court has never received any payment or response from Aromando, and the current outstanding balances now total \$848.00 and will continue to increase due to Register Lovejoy's addition of monthly finance charges on the unpaid balance.

6. Aromando never responded to Lovejoy's grievance complaint, despite the opportunity to do so. His conduct was in violation of then applicable M. Bar R. 2(c), 3.2(f)(1) and M. R. Prof. Conduct 8.1(b).
7. On February 8, 2010, Judge David Kennedy filed a grievance complaint concerning Aromando's failure to monitor a family law client's court case, to respond to discovery requests and/or to pay a \$1000.00 court-ordered fine related to those failures. Aromando failed to ever respond to Bar Counsel's request regarding Judge Kennedy's complaint, despite the opportunity to do so. Moreover, Aromando was required to do so pursuant to Maine Bar Rules 2(c) and 3.2(f)(1), and Maine Rules of Professional Conduct 8.1(b).
8. Since that time, however, counsel have agreed that Aromando will pay outstanding fees owed to the Guardian ad litem (GAL), Felicity Meyers, in the amount of \$2,400.00. That restitution shall be paid in

accordance with the District Court's related orders concerning the GAL's fees.

9. On February 12, 2010, Bar Counsel opened a *sua sponte* complaint against Aromando concerning his failure to comply with Maine Bar Rule 7.3(i)(2). Specifically, Aromando failed to ever file the required notification affidavit following his October 20, 2009 administrative suspension. In that regard, Aromando failed to comply with the mandates of Maine Bar Rule 7.3(i)(2). Although required to do so, he did not file an affidavit with the Board or the Court reporting notification of his suspension to all clients, courts and counsel.
10. Aromando also never filed an answer or any response to Bar Counsel concerning that *sua sponte* complaint. His actions and failure to respond to Bar Counsel constitute violations of M. Bar R. 2(c), 3.2(f)(1), 7.3(i)(2) and M. R. Prof. Conduct 8.1(b), respectively.
11. The Board of Overseers agrees that after obtaining counsel to represent him concerning these many grievance matters, Aromando's notification requirements under M. Bar R. 7.3(i)(2) were then addressed and accomplished by proper letters and notices issued on or about May 5, 2010 and so certified by Aromando's Affidavit of May 7, 2010.
12. As a result of all of the above matters, the Board sought the temporary suspension of Aromando's license to practice law in Maine under M. Bar R. 7.2(c).

13. On March 23, 2010 this Court issued an Order immediately suspending Aromando from the practice of law in Maine.
14. Thereafter, Aromando retained counsel who agreed that all current and further grievance complaint matters could proceed directly to Court. The parties then executed a Stipulated Waiver of further Grievance Commission action. That Waiver was approved by the Court's Order dated April 27, 2010.
15. On April 19, 2010, Kyle Bjornlund, Esq. filed a complaint concerning Aromando's conduct in the York County Superior Court matter of Bogue v. Lafond Renovations, LLC, Mark Lafond, and George Lafond. Bjornlund's complaint concerned Aromando's continued appearance as an attorney dealing with clients, courts and opposing counsel, despite and after having been so suspended from practice on October 20, 2009. With his complaint, Bjornlund included interrogatories and letters signed by Aromando. Those documents confirmed that Aromando continued to improperly appear in the Lafond litigation as a duly registered and licensed active Maine attorney during a time period – December 23, 2009 through April 3, 2010 – when he was in fact suspended from practice in Maine.
16. Despite Aromando's suspension from practice, he still participated in a March 12, 2010 discovery conference before York County Superior Court Justice Paul Fritzsche.

17. During that conference with the court, Aromando failed to disclose his suspension to the court or to opposing counsel, Bjornlund. In fact, at the time of the April 2010 complaint, Aromando continued to represent and claim that he was the defendants' counsel in that civil litigation.
18. In fact, notwithstanding being temporarily suspended by the Court's Order of March 23, 2010, Aromando admits he still sent correspondence and documents on the defendants' behalf to Bjornlund dated April 3, 2010, therein stating and representing himself to be an "Attorney at Law."
19. Aromando admits that he did not properly disclose his temporary disciplinary suspension to Bjornlund or to the court and that his conduct violated M. R. Prof. Conduct 5.5(a) and 8.4(a)(b)(c)(d).
20. Aromando belatedly moved to withdraw from representation of the LaFond defendants in that matter, causing that withdrawal to be ordered by the court effective April 22, 2010. His conduct violated M. R. Prof. Conduct 1.16(a)(1),(d).
21. On June 21, 2010, Theresa Holzworth filed a complaint against Aromando relating to the probate of the estate of her late brother, Joseph Maida. Holzworth resides in Idaho and had hired Aromando to assist her in performing her duties as Executrix of her brother's Will. Aromando's actions spanned the time period from October 2008 to June 2009. The tendered fee from Holzworth to Aromando included a \$1,500 retainer.

22. Aromando agrees that he did not regularly communicate with Holzworth about that matter, failed to respond to her repeated attempts to contact him, and has not yet returned the unearned portion of her tendered legal fee, agreed by counsel to be \$1,200.00. Although in January 2009 he filed an Application for Informal Probate of Will and Appointment of Personal Representative on behalf of Holzworth, he failed to follow up and properly provide Holzworth with status information concerning that probate matter. Dissatisfied that Aromando did not accomplish what she had hired and paid him to do, in June 2010 Holzworth terminated his employment. As a result, Holzworth is presently handling and completing the probate of the Joseph Maida Estate from her residence in Idaho without an attorney.
23. Near the end of that representation, Holzworth gave Aromando the title to her deceased brother's vehicle so that he could assist with its registration in Maine. As the named Executrix, it was Holzworth's responsibility to properly manage the estate's assets. She had requested that Aromando ensure the vehicle's new registration in Maine, but Aromando failed to accomplish that task. Holzworth eventually came to Maine and registered the vehicle herself with Maine's Bureau of Motor Vehicles.
24. Throughout the motor vehicle registration process, Aromando was not responsive to Holzworth's many attempts to contact him at his cellular phone number that he had provided to her.

25. Aromando agrees that he failed to consistently attend to her legal matter and perform his work in a diligent manner.
26. Accordingly, Aromando's failure to more timely attend to Holzworth's legal matters and regularly communicate with her resulted in Aromando's violations of M. Bar R. 3.1(a); 3.2(f)(1)(3)(4); 3.6(a)(2)(3) and M. R. Prof. Conduct 1.1; 1.3; 1.4; 1.5(a)(b); 8.4(a)(c)(d).
27. Aromando agrees that he has suffered from a dual diagnosis with related mental health issues depression and substance abuse for many years and that those deficiencies were significant factors contributing to his professional misconduct. He is currently involved with a psychiatrist's treatment and medication regimen as well as the Maine Assistance Program for Lawyers and Judges (MAP) to address his performance deficits and symptoms.
28. As a result of Aromando's misconduct within all six (6) complaints involved in this Order, he agrees and the Court so finds that he engaged in conduct unworthy of an attorney, including repeated and serious violations of at least then applicable Maine Bar Rules 2(c); 3.1(a); 3.2(f)(1)(3)(4); 3.3(a); 3.6(a)(2)(3); 7.3(i)(2) and Maine Rules of Professional Conduct: 1.1; 1.3; 1.4; 1.5(a)(b); 1.15(2)(iv); 1.16(a)(1),(d); 5.5(a); 7.1; 7.5(a); 8.1(b); 8.4(a)(b)(c)(d).



## **SANCTION**

In light of Aromando's several violations of the Maine Rules of Professional Conduct and the former Code of Professional Responsibility and accepting his acknowledgment that these are serious violations, the Court must now consider an appropriate sanction.

The primary purpose of attorney discipline is protection of the public. For this reason, the Court hereby ORDERS the following sanction in this matter as agreed and proposed by the parties:

The entry is:

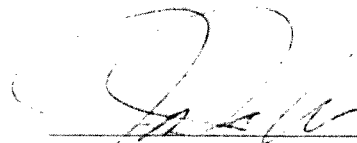
1. It is hereby ORDERED that Brian Aromando is now disciplinarily suspended from the practice of law in Maine for a definite term of two (2) years from this date with notice of that suspension to be given by the Board pursuant to the Maine Bar Rules.
2. Consistent with the terms of this judgment and the findings and conclusions previously entered, Aromando may not file a petition for reinstatement pursuant to M. Bar R. 7.3(j)(1) until after the expiration of two (2) years from the date of this judgment.
3. Within 30 days of this Order, Aromando shall arrange to meet with the Director of MAP and within the next 30 days provide written confirmation that he has entered into a contractual relationship with MAP and utilized its services consistent with the Director's recommendations and directives. Aromando shall remain in a

contractual relationship with MAP and comply with that contract to the satisfaction of and as directed by the Director of MAP.

4. Prior to seeking reinstatement Aromando shall, at his own expense, undergo a psychological evaluation from an independent, non-treating clinical psychologist or psychiatrist licensed to administer psychological and psychometric testing. Aromando shall follow all recommendations of the clinical psychologist or psychiatrist and remain in compliance with any resulting treatment and patient recommendations from a licensed, experienced clinician. The psychologist's and clinician's reports shall be distributed to the parties for inclusion and submission as part of any petition for reinstatement so filed by Aromando;
5. Prior to filing any such petition for reinstatement, Aromando shall obtain and confirm to the satisfaction of Bar Counsel actual malpractice insurance coverage in a minimum amount of \$750,000 from an insurance carrier licensed to do business in Maine.
6. Within two (2) years of the date of this ~~disbarment~~ suspension Aromando shall completely pay all outstanding balances or fees owed by him concerning the matters discussed in ¶ 5, ¶ 8 and ¶ 22 of the above findings at pp. 3 and 7 herein.
7. Prior to filing a petition for reinstatement, Aromando will satisfy and complete all then outstanding and applicable requirements of M. Bar R. 10(c), 12(d) and 7.3(j)(5)(F).

8. Should Aromando become reinstated to practice in Maine, he shall submit his practice to monitoring by a Maine attorney agreed to by Bar Counsel, and then approved and so appointed by the Court.
9. In the event a grievance complaint is received by Bar Counsel concerning misconduct allegedly committed at any time by Aromando, such complaint shall be processed under either Bar Rule 7.1(c) or 7.1(d), as deemed appropriate by Bar Counsel. In the event a preliminary review panel finds probable cause of misconduct under Bar Rule 7.1(d)(5), the matter shall then be filed by Bar Counsel directly before the Court under Bar Rule 7.2(b) without any proceeding before the Grievance Commission under M. Bar R. 7.1(e).
10. Any apparent violation of any of the conditions of this Order shall be filed by Bar Counsel directly with the Court.

Date: February 25, 2011



Joseph M. Jabar, Associate Justice  
Maine Supreme Judicial Court

