

STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

GCF No. 11-019

BOARD OF OVERSEERS OF THE)
BAR)
) Petitioner)
) v.)
WAYNE R. MURPHY)
of Boston, Massachusetts)
Me. Bar No. 008226)
) Respondent)

**STIPULATED REPORT OF
FINDINGS AND ORDER OF
PANEL C OF THE GRIEVANCE
COMMISSION
M. Bar R. 7.1(e)(2)(4)**

On May 15, 2012, with due notice, Panel C of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 7.1(e)(2)(E), concerning alleged misconduct by the Respondent, Wayne R. Murphy (Murphy). This disciplinary proceeding had been commenced by the filing of a Disciplinary Petition by the Board of Overseers of the Bar (the Board) on January 9, 2012.

At the hearing the Board was represented by Assistant Bar Counsel Aria Eee. Murphy attended the hearing and represented himself *pro se*. Prior to the disciplinary proceeding, the parties had submitted a stipulated, proposed Report for the Panel's review and consideration.

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

FINDINGS

Respondent Wayne R. Murphy of Boston, Massachusetts was, until the imposition of the Board's October 2010 administrative suspension, at all times

relevant hereto an attorney duly admitted to the practice of law in the State of Maine and subject to the Maine Bar Rules and the Maine Rules of Professional Conduct (MRPC). Murphy was admitted to the Maine Bar in 1991.

On October 15, 2010 Murphy was administratively suspended by the Board due to CLE deficiencies and his failure to annually register and pay the fees required by Maine Bar Rules Rules 6(a)(1), 10(a) and 12. Murphy did not then file the notice affidavit certifying his compliance with Maine Bar Rule 7.3(i)(2) as required within 30 days after that suspension date. By its certified letter of December 7, 2010, the Board notified Murphy of the consequence of his failure to file that required affidavit. Despite the Board's mailing, Murphy apparently did not receive the Board's notification and failed to meet his filing deadline of January 3, 2011.

On January 13, 2011, Bar Counsel docketed a *sua sponte* grievance complaint against Murphy for his failure to comply with the affidavit requirements of M. Bar R. 7.3(i)(2), such conduct being in violation of M.R.P.C. 8.4(a). Despite the opportunity to do so, Murphy did not respond to the investigation of that grievance matter. His failure in that regard constituted a violation of M. R. Prof. Conduct 8.1(b). Moreover, between his administrative suspension and the authorization of this matter for disciplinary hearing, Murphy was reciprocally disciplined by the Maine Supreme Judicial Court. By Order dated April 4, 2011 the Court issued a Suspension of Murphy based upon his multiple violations of Massachusetts Rules of Professional Conduct. Murphy has not applied for reinstatement and remains suspended in Maine.

On May 23, 2011 a Panel of the Grievance Commission reviewed Murphy's actions related to the *sua sponte* complaint. Based upon that review and Murphy's failure to respond, the Panel found probable cause to believe that he had engaged in misconduct subject to sanction under the Maine Bar Rules. Murphy was subsequently notified of the Panel's decision.

On January 9, 2012, the Board filed the Disciplinary Petition as directed by the review Panel. On February 4, 2012, the Suffolk County Massachusetts Sheriff's Department personally served Murphy with a Summons and a copy of the Board's Disciplinary Petition. On March 8, 2012, Murphy filed an Answer to the Disciplinary Petition. In the Answer, Murphy acknowledged his failure to fulfill the registration requirements, failure to respond to the correspondence regarding the suspension and grievance matters and his failure to file the required notice affidavit. Additionally, Murphy's Answer outlined the fact that he had no Maine clients or cases at the time of his suspension. No notices were required to be sent as he had no Maine clients, and no active appearances with any Maine state or federal courts or with any Maine agencies.

At the hearing Murphy informed the Panel that he had just filed a formal notice affidavit with the Court with a copy to the Board.

As a result of the above-outlined circumstances, Murphy's conduct constituted violations of the following Maine Bar Rules and Maine Rules of Professional Conduct as set forth below: M. Bar R. 7.3(i)(2)(A)(B) and M.R. of Prof. Conduct 8.1(b); 8.4(a)(d). As a consequence of his suspension, he is not currently a licensed member of the Maine Bar.

CONCLUSION AND SANCTION

M. Bar. R. 2(a) provides 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. The Panel notes that Murphy was reciprocally suspended in April 2011. Prior to that, in July 2007, Murphy received a reprimand in Maine for his violations of the Massachusetts Rules of Professional Conduct.

Among the factors to be considered in imposing sanctions are: the duty violated, the lawyer's mental state, the actual or potential injury caused by the lawyer's misconduct and the existence of any aggravating or mitigating circumstances. See *ABA Standards for Imposing Lawyer Sanctions*, 1991 (ABA Standards). See also M. Bar R. 7.1(e)(3)(C).

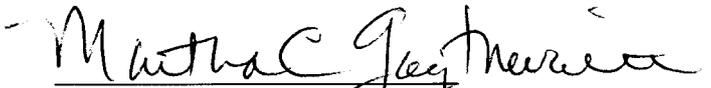
The first factor to be considered for sanctions under the ABA Standards is to determine what duty has been breached. The Maine Rules of Professional Conduct require attorneys to uphold their responsibilities to clients and the courts. Murphy violated his duties to the legal system by failing to complete the annual registration requirements in 2010 and by failing to file the required notification affidavit once he was administratively and reciprocally suspended. Murphy's neglect caused minor injury to the legal system. The Maine Supreme Judicial Court promulgated the Maine Bar Rules and the Maine Rules of Professional Conduct to govern the practice of law by Maine attorneys. The

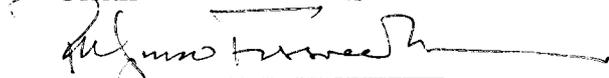
information collected by the annual registration of lawyers facilitates the protection of the public and courts.

Therefore, the Panel accepts the agreement of the parties, including Murphy's separately executed waiver of the right to file a Petition for Review. As a result, the Panel concludes that the appropriate disposition of this case is a **Public Reprimand** to Wayne Robert Murphy which is now hereby issued pursuant to M. Bar R. 7.1(e)(3)(C), (4). Additionally, Mr. Murphy remains suspended from the practice of law in Maine.

For the Panel:

Date: May 15, 2012


Martha C. Gaythwaite, Esq.
Chair


Peter C. Fessenden, Esq.


Richard P. Dana, CPA (layperson)