

STATE OF MAINE

Maine Supreme Judicial Court

BAR 13-5

Board of Overseers of the Bar)
Plaintiff)
v.)
)
Carol J. Webb)
of Farmington, ME)
Me. Bar No. 9122)
Defendant)

ORDER

On March 12, 2013 the Board of Overseers of the Bar (the Board) filed a disciplinary Information concerning apparent misconduct by suspended attorney Carol J. Webb (Webb). Following proper service, Webb was afforded the opportunity to Answer the Board’s filing. Following the status conference, the parties notified the Court that they had reached settlement on this matter.

FINDINGS

Ms. Webb of Farmington, Maine was, until the imposition of an administrative suspension on October 22, 2012, an attorney duly admitted to and engaging in the practice of law in the State of Maine, subject to the Maine Bar Rules and the Maine Rules of Professional Conduct. Webb was admitted to the Maine Bar in 2001 and for the relevant time period, she maintained a solo practice in Farmington, Maine. Through the last few years of that solo practice, however, Webb encountered difficulties with client communications, managing her calendar and running the law office.

In March 2012 former client Alison Small filed a complaint with the Board alleging that Webb failed to appropriately communicate, charged excessive fees, missed important court dates and was neglectful in handling

her family law case. Ms. Small also alleged that Webb failed to perform the services for which she was paid, and failed to timely provide her client file upon the respective requests of Ms. Small and her new attorney.

Subsequently, another client, Keith Brewer, filed both a fee arbitration petition and grievance complaint against Webb. Brewer's filings detailed his concerns that Webb exceeded the scope of her authority, failed to timely communicate, failed to prepare for court proceedings and failed to adequately work on his 2011-2012 divorce matter.

To begin with, the Court appreciates Webb's candid acknowledgement of her failings regarding Ms. Small's legal matter. Webb admits that on January 19, 2012 she failed to appear for Small's Parental Rights and Responsibilities hearing. While Webb received prior notice of that hearing, she failed to properly calendar it and notify Ms. Small. That calendaring mistake was later exacerbated by a January 13, 2012 flood in Webb's building which closed her law office for a period of time.

After Ms. Small discharged Webb, Small requested that the client file be mailed to her successor counsel. While Webb apparently did mail that file to successor counsel, she later learned that he did not receive the file. Additionally, although Webb did not intend to impact Ms. Small's ability to continue on with new counsel, she understands that the lack of a client file certainly hindered Ms. Small's preparation with her new lawyer.

Webb also agrees to deficiencies in her communications with Mr. Brewer. She admits that she failed to adequately prepare for and monitor his divorce matter. Due to her own struggles running the law office, Webb found it difficult to keep Mr. Brewer regularly informed. Likewise, she failed to properly

calendar important deadlines such that he was provided with adequate notice of impending court proceedings.

On February 1, 2013 Bar Counsel docketed a sua sponte complaint against Webb for her failure to comply with Maine Bar Rule 7.3(i)(2)(A)(B). That rule requires suspended attorneys to file affidavits with the Court (and the Board) attesting to the attorney's compliance with client and court suspension notifications. Webb agrees that she failed to file the affidavits and acknowledges that such failure constituted professional misconduct.

Thereafter, on February 19, 2013 District Court Judge Valerie Stanfill filed a grievance complaint due to Webb's failure to notify the District Courts of her October 2012 administrative suspension. Although she denied any harm to the involved client, Webb does not dispute that she failed to provide timely notification of her suspension to the courts. Indeed, Webb concedes that she did not properly attend to her registration and CLE filing requirements, resulting in her suspension and delayed notice to the courts.

Webb has reiterated to the Court her understanding that she is not permitted to practice law again until she becomes reinstated by the Court.

Based upon the above-outlined findings and the parties' agreement, the Court finds that Carol J. Webb's actions in both client matters constituted violations of Maine Rules of Professional Conduct: 1.3 [diligence]; 1.4 [communication]; 1.5(a) excessive fee and 1.15(d); [termination of representation]. The Court further finds that Webb's failure to file the affidavit of compliance constituted a violation of M. Bar R. 7.3(i)(2)(A)(B). Finally, Webb's failure to properly and timely notify the District Courts of her October 2012 administrative suspension constituted a violation of M. Bar R. 7.3(i)(2)(v).

CONCLUSION AND SANCTION

The Maine Bar Rules and Rules of Professional Conduct specifically require attorneys to uphold their duties to clients and the courts. Due to Carol Webb's actions, Ms. Small suffered upset, distress and delays in pursuing her legal matter. Similarly, Mr. Brewer was negatively impacted by Webb's lack of attention to his legal matter. Finally, the court system relies on Maine attorneys to keep it informed of any restrictions affecting the attorney's ability to practice. If an attorney fails to keep a court apprised of any such limitation, then that failure negatively impacts the Judicial Branch's handling of critical client needs. While the Court understands that Webb did not intend for these consequences, it is clear that her actions created obvious distress to the clients and confusion for the courts.

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. 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 M. Bar R. 7.1(e)(3)(C); *See also ABA Standards for Imposing Lawyer Sanctions*, 1991 (ABA Standards).

Carol Webb violated her professional duties by failing to properly monitor Ms. Small's and Mr. Brewer's legal matters. Additionally, Webb failed to timely provide notice of her suspension to the courts where she regularly practices. Her actions caused harm to the clients and created unnecessary confusion and

