



STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

GCF No. 13-354

Board of Overseers of the Bar)
Petitioner)
v.)
Kimberly A. Shoen, Esq.)
of Somersworth, NH)
Me. Bar No. 008690)
Respondent)

**STIPULATED REPORT of
FINDINGS AND ORDER of
Panel C of the GRIEVANCE
COMMISSION**

M. Bar R. 7.1(e)(2)(E); 7.1(e)(3)(C)

On August 15, 2014, with due notice and pursuant to Maine Bar Rule 7.1(e)(2)(E), Panel C of the Grievance Commission conducted a public disciplinary hearing pursuant to concerning alleged misconduct by Respondent Kimberly A. Shoen, Esq. The Board of Overseers of the Bar (the Board) commenced this disciplinary proceeding by filing a Stipulated Disciplinary Petition on March 18, 2014.

At the August 2014 hearing, Attorney Shoen was represented by James M. Bowie, Esq. and the Board was represented by Aria Eee, Deputy Bar Counsel. The Family Law Magistrate, who was the Complainant in this matter, was not present for the stipulated hearing, although Bar Counsel did provide her with an advanced copy of this proposed order.

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

FINDINGS

Respondent Kimberly A. Shoen, Esq., of Somersworth, New Hampshire has been at all times relevant hereto an attorney duly admitted to and engaging in the

practice of law in Maine. As such she is subject to the Maine Bar Rules and the Maine Rules of Professional Conduct (M.R. Prof. Conduct). Attorney Shoen was admitted to the Maine Bar in July 1998 and is also licensed in New Hampshire and New York. She is a solo practitioner with a focus on family and criminal law.

The pending complaint matter arose out of a family law case management conference which occurred in November 2013. The Family Law Magistrate presided over that conference and Attorney Shoen and another lawyer represented the two parties involved in the underlying case. At one point during the conference, the Magistrate took a recess and left the courtroom. Opposing counsel and his client also left the courtroom, but Attorney Shoen and her client remained behind as did representatives of the DHHS Office of Child Support. According to the Magistrate's complaint, during the recess, the court marshal observed Attorney Shoen walk over to opposing counsel's table and look at documents that had been laid out during the conference. Following his observation, the marshal reported the event to the Magistrate prior to her return to the courtroom. At the conclusion of the case management conference, the Magistrate asked both attorneys to meet with her in chambers.

Once in chambers, the Magistrate confronted Attorney Shoen with what the court marshal had just observed. Attorney Shoen admitted to having looked at the opposing party's document/notebook, and explained her reasons therefore. After leaving chambers Attorney Shoen apologized to opposing counsel. Subsequently, the Magistrate filed a grievance complaint, pursuant to her obligations under the Maine Code of Judicial Conduct, Canon 3 (D)(2).

In her response to the Magistrate's complaint, Attorney Shoen further explained her actions. In that regard, Attorney Shoen reported that as she walked across the room, she briefly looked at a notebook on opposing counsel's table. At that time, she apparently expected to see doodling or artwork since she had noticed large lines on the notebook. Shoen reported that once she realized what she had viewed was not artwork but instead large writing, she ceased looking. As a consequence of these events, Attorney Shoen withdrew as counsel in the underlying matter and has vowed to "never again walk over and look at opposing counsel's table." In her appearance before the Grievance Commission at this hearing, Attorney Shoen reiterated her apology to the bar and acknowledged her regret for her behavior before the Magistrate, her colleague and the opposing party.

CONCLUSION AND SANCTION

The Maine Rules of Professional Conduct specifically require attorneys to uphold their responsibilities as officers of the court. Due to Attorney Shoen's actions, various court officials and other litigants/participants were confronted with her disturbing lack of professional judgment. Those officials included the presiding jurist who took immediate action to address Shoen's behavior. Accordingly, the Panel finds that Attorney Shoen violated M.R. Prof. Conduct 4.4(a) [Respect for Rights of Third Persons] and 8.4(d) [prejudicial conduct]. The Panel notes that Attorney Shoen has taken responsibility for her behavior. She has acknowledged the wrongfulness of her actions and expressed remorse for her violations of the Maine Rules of Professional Conduct.

The Panel further notes that the purpose of bar disciplinary proceedings is not punishment, but rather the protection of the public from attorneys who have