

FINDINGS

1. Attorney L'Hommedieu of Lewiston, County of Androscoggin, State of Maine, was at all times relevant hereto an attorney duly admitted to and engaging in the practice of law in the State of Maine and subject to the Maine Bar Rules. Attorney L'Hommedieu was admitted to the Maine Bar in 1995 and has been practicing law in Lewiston, Maine since 1997.

2. On October 23, 2001, the Court suspended Attorney L'Hommedieu for violations of Maine Bar Rules 3.1(a); 3.2(f)(3)(4) and 3.7(e)(1)(i). See Bar 01-03, *Board of Overseers of the Bar v. E. Christopher L'Hommedieu, Esq.*

3. On February 14, 2005 Cynthia McConnell filed a grievance complaint against Attorney L'Hommedieu.

4. The specifics of Attorney L'Hommedieu's conduct are outlined below.

a) On or about February 18, 2004 Attorney L'Hommedieu, on behalf of his client (Henry McConnell/defendant), filed a post-Divorce Motion to Enforce (regarding contact between Mr. McConnell and the minor children) in the Lewiston District Court. At that time, Mr. McConnell was stationed at an U.S. Air Force Base in Turkey. Ms. McConnell's attorney cross-claimed and eventually filed proposed child support orders, based on her estimate of Mr. McConnell's income.

b) On July 1, 2004, the District Court issued an "Interim Order

and Order on Motions for Entry of Judgment and Sanctions”. A copy of that Order was received from the court by Attorney L’Hommedieu on July 6, 2004. Contained within the Interim Order was a direction for the “Defendant to file a Child Support Affidavit with income from all sources ...within 20 days of the date of the Order”.

c) Issued with the Interim Order was an “Interim Child Support Order” which increased Mr. McConnell’s child support obligation.

d) Attorney L’Hommedieu failed to file Mr. McConnell’s child support affidavit within that court-ordered time. Although by August 6, 2004, Attorney L’Hommedieu had two copies (faxed by his client) of the affidavits, he chose to not so inform the court or to then file the affidavits. Instead, he determined whether the “employment fringe benefits” portion which his client completed, was truly considered income. In his response to the Board, Attorney L’Hommedieu stated as follows:

“After the 8/3/04 [case management] conference, the undersigned received a faxed copy of Henry’s new child support affidavit. Henry had included in this affidavit employment fringe benefits of up to \$27,384.00, an extraordinary figure. It was in no way clear what these fringe benefits were, and the undersigned was not convinced they needed to be included in Henry’s child support affidavit.”

f) Multiple other motions and letters were filed by counsel for Ms. McConnell and by Attorney L’Hommedieu concerning discovery and procedural disputes, including a Motion for Default by Ms. McConnell’s counsel seeking a child support order based on her estimate of Mr.

McConnell's income. While in possession of his client's two child support affidavits, Attorney L'Hommedieu filed an "Offer of Judgment" using the lower child support figure proposed in Ms. McConnell's Motion for Default. However, Attorney L'Hommedieu now acknowledges that he had a duty to disclose accurately to the Court, irrespective of what Ms. McConnell had asked the Court for.

g) The offer of settlement was rejected by Ms. McConnell's attorney.

h) Attorney L'Hommedieu knew when he made the offer of settlement that his client's income, if the fringe benefits were included, was higher than what the complainant or her attorney had estimated the income would be and was higher than the income figure used by the District Court in the Interim Order.

i) On or about September 21, 2004 Attorney L'Hommedieu complied with the District Court's order by filing the faxed copies of his client's two child support affidavits. Thereafter, he received the original signed child support affidavits from his client. On or about September 29, 2004 Attorney L'Hommedieu filed the original, signed child support affidavits from his client.

A. Violation of M. Bar R. 3.1(a)

Like the previous grievance against Attorney L'Hommedieu, the current violations concern dishonest conduct. By reviewing his actions in total, it is clear that Attorney L'Hommedieu committed "conduct

unworthy of an attorney”. After Magistrate Oram issued the “Interim Order,” Attorney L’Hommedieu was required to comply with that Order.

B. Violation of M. Bar R. 3.2(f)(3)(4)

Attorney L’Hommedieu knew that his client’s child support affidavit was due and that Mr. McConnell’s income was higher than the District Court or Ms. McConnell had estimated. While competent advocacy is expected of lawyers, overzealous representation can lead, as it did here, to a violation of the Code of Professional Responsibility. Attorney L’Hommedieu went too far in advancing his client’s interests.

B. Violation of M. Bar R. 3.7(b); 3.7(e)(1)(i)

By withholding the affidavit and then proposing a settlement offer regarding child support, Attorney L’Hommedieu concealed information and mislead the parties and the District Court. As an officer of the court, Attorney L’Hommedieu was obligated to ensure that the District Court’s information was accurate and he is presumed to know that complete candor with the court is the responsibility of every lawyer admitted to practice. See *Board of Overseers v. William Fogel*, BAR 99-7.

CONCLUSION AND SANCTION

As Maine Bar Rule 2 outlines, the purpose of disciplinary proceedings is not punishment but rather, protection of the public and the courts from attorneys who by their conduct have demonstrated that

they are unable to discharge properly their professional duties. It appears that a reprimand serves those purposes.

Therefore the Panel concludes that the following violations occurred:

- a. Attorney L'Hommedieu violated M. Bar R. 3.2(f)(3)(4);**
- b. Attorney L'Hommedieu violated M. Bar R. 3.7(b);
3.7(e)(1)(i);**
- c. Attorney L'Hommedieu's foregoing violations also constitute conduct unworthy of an attorney in violation of M. Bar R. 3.1(a).**

Having made findings of misconduct subject to sanction under the Bar Rules, M. Bar Rule 7.1 (e)(3)(C) directs this Grievance Commission Panel to consider certain factors in determining the appropriate sanction. These factors are:

- (i) whether the attorney has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (ii) whether the attorney acted intentionally, knowingly, or negligently;
- (iii) the amount of actual or potential injury caused by the attorney's misconduct; and
- (iv) the existence of any aggravating or mitigating factors.

The Panel has accordingly considered the foregoing factors and finds that Attorney L'Hommedieu has violated duties owed to the client

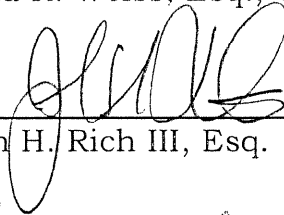
and the legal system. He acted knowingly and purposefully, causing actual injury to the court and to the minor children, whose primary caretaker did not receive the adjusted support amounts in a timely fashion. As an aggravating factor, and as noted above, in December 2001, Attorney L'Hommedieu previously was suspended for engaging in dishonest conduct. As a mitigating factor, Attorney L'Hommedieu is remorseful and acknowledges that his overzealous representation of Mr. McConnell prevented him from complying with his duties to the District Court.

The Panel concludes that the appropriate disposition of this case is a public reprimand to Attorney E. Christopher L'Hommedieu.


Dated: December 15, 2005



David R. Weiss, Esq., Chair



John H. Rich III, Esq.



Susannah White