

STATE OF MAINE

Board of Overseers of the Bar

File No. 07-67



BOARD OF OVERSEERS OF THE BAR )  
 )  
 Petitioner )  
 v. )  
 )  
 Randal E. Watkinson, Esq. )  
 Of Rockland, Maine )  
 Me. Bar No. 437 )  
 )  
 Respondent )

**REPORT OF FINDINGS**  
**PANEL E OF THE**  
**GRIEVANCE COMMISSION**  
**M. Bar R. 7.1(e)(2)**  
**M. Bar R. 7.1(e)(4)**

On May 27, 2008, with due notice, Panel E of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 7.1(e)(2)(E), concerning misconduct by the Respondent, Randal E. Watkinson, Esq. This disciplinary proceeding had been commenced by the filing of a stipulated Disciplinary Petition by the Board of Overseers of the Bar (the Board) on April 9, 2008.

At the hearing, Attorney Watkinson appeared, *pro se* and the Board was represented by Assistant Bar Counsel, Aria eee. The complainant, Gary Mills, had been provided with a copy of this Report (in its proposal form) and was present. Prior to the disciplinary proceeding, the parties had submitted a stipulated, proposed sanction Report for the Grievance Commission Panel's review and consideration.

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

## **FINDINGS**

Respondent Randal E. Watkinson (Watkinson) of Rockland, County of Knox, State of Maine, has been 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 Watkinson was admitted to the Maine bar in 1975 and he is a member in good standing.

On March 1, 2007 Gary Mills filed a complaint with the Board against Attorney Watkinson alleging that Watkinson engaged in representation of Mills' father in an area of law in which Watkinson was not competent. Mills further alleged that Watkinson failed to exercise due diligence in obtaining the information necessary to provide such representation and that Watkinson subsequently made a material misrepresentation during settlement negotiations of a probate matter involving Mills and his brother.

On March 26, 2007, Attorney Watkinson filed his response with the Board, providing background information on his involvement with the family leading up to the filing of Mills' complaint.

On August 7, 2007 the complaint and responses were reviewed by a Panel of the Grievance Commission. The panel found that probable cause existed that Attorney Watkinson had engaged in misconduct subject to sanction under the Bar Rules. Pursuant to M. Bar R. 7.1(d)(5) the panel directed Bar Counsel to prepare and present a formal Disciplinary Petition for disciplinary action before a different panel of the Grievance Commission.

Prior to the Board's filing this Petition, Assistant Bar Counsel and Attorney Watkinson generally agreed that Watkinson engaged in misconduct, having violated specific portions of the Code of Professional Responsibility for which he should receive a reprimand.

To that end, Attorney Watkinson acknowledges that he improperly failed to confirm the accuracy of the allegations in a Knox County Superior Court lawsuit he initiated in 2000 on behalf of Mills' father. Specifically, the above-referenced violations implicated Maine Bar Rules 3.1(a) (conduct unworthy of an attorney) and 3.6(a)(1)(2) (requiring a lawyer to be adequately prepared and competent while performing legal services).

Additionally, Attorney Watkinson committed conduct unworthy of an attorney when he advised the complainant, Gary Mills and Watkinson's client, Glen Mills (brothers and heirs to their father's estate) to withhold the probate of the Mills' grandmother's Will to avoid the State of Maine's estate recovery efforts. As a result of his unsound advice, Attorney Watkinson engaged in conduct prejudicial to the administration of justice. See M. Bar R. 3.2(f)(4). Once he was informed by Mills' attorney of his error, Attorney Watkinson filed the Will with the Waldo County Probate Court.

Gary Mills filed a motion in 2006 to remove his brother as Personal Representative of their father's estate. During a recess in the November 2006 hearing on the motion, Attorney Watkinson and the Attorney for Gary Mills discussed a possible settlement. In the course of those discussions, Attorney Watkinson relayed his understanding that the state was not intending to

pursue a claim against the Mills Estate. Since Gary Mills relied on Watkinson's statements he then agreed to become Trustee of a trust created under his fathers Will.

Consequently in May 2007, the State of Maine did in fact pursue a \$163,000 claim against the Mills estate.<sup>1</sup> Prior to the states filing Gary Mills sold the family home at a sale price significantly less than the State's subsequent claim. Ultimately, the Mills estate and the State of Maine settled the recovery action and in February 2008 the two parties stipulated to a dismissal of the same. Reviewing the totality of those circumstances, the Grievance Commission finds that Attorney Watkinson's flawed consideration of whether the State would pursue the recovery action resulted again in conduct prejudicial to the administration of justice.

### **CONCLUSION AND SANCTION**

The Code of Professional Responsibility specifically requires attorneys to uphold their responsibilities to clients and the courts. Due to Attorney Watkinson's above-outlined failures, Mr. Mills incurred additional expenses, frustration, time and energy.

The panel notes that Attorney Watkinson has taken responsibility for his actions and the unfair result to Mr. Mills and the Mills estate. During this hearing, Attorney Watkinson offered an apology to Mr. Mills for his violations of the Code of Professional Responsibility.

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<sup>1</sup> This is so even though Watkinson had given differing reports about how he had acquired the information about the states claim.

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, or likely to be unable, to discharge properly their professional duties. Since the evidence supports a finding and Attorney Watkinson agrees that he did in fact violate the Code of Professional Responsibility, it appears that a public reprimand serves those purposes.

Therefore, the Panel accepts the agreement of the parties, including Attorney Watkinson's waiver of the right to file a Petition for review, and concludes that the appropriate disposition of this case is a reprimand to Randal E. Watkinson Esq. as provided by M. Bar R. 7.1(e)(3)(C).

Dated: May 27, 2008

**For the Parties**

  
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Aria eee, Assistant Bar Counsel

  
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Randal E. Watkinson, Esq.

**Grievance Commission Panel**

  
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Victoria Powers, Esq., Chair

  
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John C. Hunt, Esq.

  
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Joseph R. Reisert, Ph.D.