

STATE OF MAINE

SUPREME JUDICIAL COURT

Docket No. BAR-02-04

BOARD OF OVERSEERS OF THE BAR
Plaintiff

v.

ORDER

BOARD OF OVERSEERS OF

OCT 22 2002

JULIO V. DeSanctis, Esq.
of Orrington, Maine
Me. Bar No. 1751
Defendant

This matter came before the Court for a telephonic case management conference on October 18, 2002. The Board of Overseers of the Bar (the Board) was represented by Bar Counsel J. Scott Davis, and Mr. DeSanctis was represented by his attorney, Richard W. Hall, Esq. Mr. Hall stated that Mr. DeSanctis had been consulted, actively involved and agreed with the parties' proposed sanction. The Court was informed by Bar Counsel that the complainant, Barry McSorley, had also been told of and totally agreed with the parties' stipulation and proposed sanction.

Pursuant to M. Bar R. 7.1(e), disciplinary proceedings had occurred before Grievance Commission Panel A on November 6, 2001. As a result of that hearing, that panel found probable cause for these court proceedings to be initiated.

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STIPULATIONS

The parties have stipulated to the following material facts:

Mr. DeSanctis was admitted to practice in Maine in 1974 and, until recently, has been practicing law in the Bangor and Orrington area since that time.

On September 6, 2000, Barry McSorley of Sebec consulted Mr. DeSanctis concerning his claim that a truck he had recently purchased was defective and had not been properly repaired by the dealer/seller, Gerry's Used Cars of Corinna, Maine.

Mr. DeSanctis immediately called Gerry's and told them to refund the purchase money or a lawsuit would be filed "on Monday".

Mr. McSorley immediately paid a \$200.00 cash retainer fee for Mr. DeSanctis to initiate that lawsuit.

The seller wrote Mr. McSorley a response on September 13, 2000 indicating he would not comply with Mr. DeSanctis' refund demand.

That suit was not ever filed by Mr. DeSanctis and he otherwise failed to move forward on Mr. McSorley's case or respond to his telephone calls and letters requesting case status information.

Due to no suit being filed or other action being taken by Mr. DeSanctis - at least to the knowledge of Mr. McSorley - on his case, Mr. McSorley paid \$631.00 to have the truck repaired elsewhere.

Mr. McSorley complained to the Board on November 11, 2000 concerning Mr. DeSanctis' inattention and his \$200.00 unearned fee. In the course of Bar Counsel's investigation and contact with Mr. DeSanctis, he failed to take adequate steps to ensure that timely responses were properly communicated to Bar Counsel. He also settled the related fee dispute by accepting Mr. McSorley's suggested settlement request for a refund of the \$200.00 attorney fee. Mr. DeSanctis' settlement letter caused Mr. McSorley to incorrectly believe that their monetary settlement also ended his grievance complaint to the Board.

CONCLUSIONS OF LAW


The parties have stipulated and the Court finds that Mr. DeSanctis' conduct was in violation of M. Bar R. 3.2(f)(4) (Conduct Prejudicial to the Administration of Justice); 3.3(a) (Excessive Fee); 3.6(a) (Standards of Care and Judgment); and 7.3(b) (Refusal of Complainant to Proceed; Compromise; Restitution).

SANCTION

Mr. DeSanctis has been previously reprimanded for professional misconduct, being publicly reprimanded by the Grievance Commission in 1990 (affirmed by the Court), 1991 and 1995. That disciplinary history could very well support or require a more serious sanction in this instance.

However, given Mr. DeSanctis' recent and continuing suffering with cancer and his having now - for reasons already planned and unrelated to that illness or this grievance matter - moved to New Jersey, and his plans to not practice law in Maine, Bar Counsel Davis proposes and the Court hereby agrees that Julio V. DeSanctis is HEREBY reprimanded for his misconduct in this matter.

Dated: 10/21/02



Jon D. Levy, Associate Justice
Maine Supreme Judicial Court