

Cumberland, ss.

Board of Overseers of the Bar
Grievance Commission
File No. 03-320

BOARD OF OVERSEERS OF THE BAR)	
)	
Petitioner)	
v.)	Report of Findings
)	of Panel B of the
JAMES J. MACADAM, ESQ.)	Grievance Commission
of Portland, Maine)	
Me. Bar #2484)	
Respondent)	

On November 18, 2004, pursuant to due notice, Panel B of the Grievance Commission conducted a disciplinary hearing open to the public according to Maine Bar Rule 7.1(e)(2), concerning misconduct by the Respondent, James J. MacAdam, Esq. This disciplinary proceeding was commenced by the filing of a Petition by the Board of Overseers of the Bar on September 9, 2003.

Present at the hearing were Assistant Bar Counsel, Nora Sosnoff, representing the Board; Attorney James J. MacAdam, represented by Attorney Peter J. DeTroy; and both complainants, Joan Mooney and James P. Mooney, Jr.

The Panel heard testimony from Attorney MacAdam and James P. Mooney Jr. pursuant to questioning by Assistant Bar Counsel and Attorney DeTroy. Having heard that testimony and having reviewed the proposed findings presented by the parties, the Panel makes the following disposition:

FINDINGS

1. Respondent James J. MacAdam (Attorney MacAdam) of Portland, County of Cumberland, State of Maine, is and was at all times relevant hereto an attorney duly admitted to and engaged in the practice of law in the State of Maine and subject to the Maine Bar Rules. Attorney MacAdam was admitted to the Maine Bar in 1981. He is in private practice, having an office at 208 Fore Street, Portland, Maine.

2. This Panel issued a public reprimand to Attorney MacAdam on December 1, 2003 for his failures in three cases to represent clients in accordance with the standards established in Maine's Code of Professional Responsibility.

3. In each of those three prior cases which resulted in a reprimand, Attorney MacAdam's failures towards his clients stemmed from his excessive reliance on his former non-lawyer assistant, who intercepted client, court, opposing counsel and other significant communications directed to Attorney MacAdam, engaged in numerous acts of deceit and misrepresentation, and misled clients about the status of their legal affairs.

4. In this case, the Mooneys suffered harm due to the same excessive reliance on the same legal assistant, but there are other facts that constitute other Bar Rule violations as well.

A. Violation of M. Bar R. 3.13(c)

5. As in the earlier cases, Attorney MacAdam accepted false and fabricated information about the Mooneys' legal matter from his non-lawyer assistant. He made no independent inquiries to ascertain the facts. His assistant intercepted all the Mooneys' communications, and misled the Mooneys about the status of their legal matter.

6. The Mooneys had no opportunity to protect themselves from the misconduct by Attorney MacAdam's legal assistant. Only Attorney MacAdam would have been in a position to offer such protection to them. He failed to do so.

B. Violation of M. Bar R. 3.6(a)(3):

7. Attorney MacAdam neglected the legal matter entrusted to him by the Mooneys. As a result, on August 30, 2000, the Mooneys' complaint for damages arising from a car accident was dismissed with prejudice by the Cumberland County Superior Court.

C. Violation of M. Bar R. 3.6(a):

8. Attorney MacAdam failed to meet the standard requiring a Maine attorney to “take reasonable measures to keep the client informed on the status of the client’s affairs.” See M. Bar R. 3.6(a). Attorney MacAdam violated this provision in two significant ways:

First, after one meeting and one letter in 1993 at the commencement of his representation of the Mooneys, Attorney MacAdam had no further communication with the Mooneys concerning the status of their personal injury matter for nine (9) years.

Second, Attorney MacAdam failed to articulate in writing to the Mooneys that their personal injury complaint had been dismissed with prejudice by the Cumberland County Superior Court on August 30, 2000.

Whether, as Attorney MacAdam claims, he called the Mooneys and orally advised them in the summer of 2002 about the dismissal from three (3) years earlier, or whether, as the Mooneys adamantly assert, they only learned of the order of dismissal with prejudice because Mr. Mooney went to the courthouse and examined the court file in the fall of 2003, Attorney MacAdam was responsible for the fact that the dismissal occurred. Additionally, Attorney MacAdam was obligated to clearly communicate that development in writing to his clients, so there was a clear record for him and the clients to rely on.

CONCLUSION AND SANCTION

As we articulated in the previous public reprimand this Panel issued to Attorney MacAdam, and as we have occasion to repeat concerning the Mooneys' grievance, it is beneficial to both attorneys and their clients for non-lawyer assistants to perform appropriate tasks during a lawyer's representation of a client. However, no attorney should delegate professional responsibilities to the extent that Attorney MacAdam did with a particular assistant.

We add in this case, the observation that the problems in the representation of the Mooneys could not have evolved as they did, had Attorney MacAdam not isolated himself from managing calendars and case materials, as well as the interpersonal communications associated with the representation of the clients. Attorney MacAdam was the first attorney the Mooneys had ever hired in their lives and their distress over what occurred is thoroughly understandable.

Therefore the Panel concludes that the following violations occurred:

- a. Attorney MacAdam engaged in professional misconduct in violation of M. Bar R. 3.13(c) by failing to make reasonable efforts to**

ensure that the conduct of his legal assistant was compatible with Attorney MacAdam's professional obligations.

b. Attorney MacAdam violated M. Bar R. 3.6(a) by failing to take reasonable measures to keep his clients informed on the status of their legal affairs.

c. Attorney MacAdam violated M. Bar R. 3.6(a)(3) by neglecting the Mooneys' legal matter and thus failing to ensure that the Mooney's complaint for damages was not dismissed with prejudice on procedural grounds.

d. Attorney MacAdam's foregoing violations also constitute conduct unworthy of an attorney in violation of M. Bar R. 3.1(a).

The Panel concludes that the appropriate disposition of this case is a public reprimand to Attorney James J. MacAdam.

Dated: November 18, 2004

/s/
David R. Weiss, Esq., Chair

/s/
John H. Rich, III, Esq.

/s/
Caroline S. Macdonald