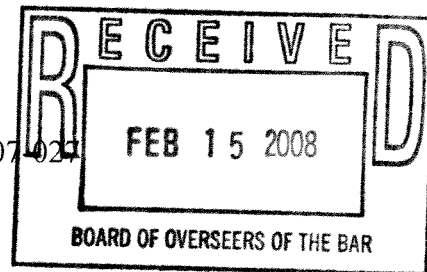


Board of Overseers of the Bar

Grievance Commission

File No. 07-021



BOARD OF OVERSEERS OF THE BAR)	
)	
Petitioner)	
)	REPORT OF FINDINGS
v.)	OF GRIEVANCE
)	COMMISSION PANEL D
JOSEPH D. MOSER, ESQ.)	M. Bar R. 7.1(e)(3)(C)
of BELFAST, MAINE,)	M. Bar R. 7.1(e)(4)
ME BAR #0625)	
)	
)	
Respondent)	

On January 28 and February 15, 2008 pursuant to due notice, Panel D 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, Joseph D. Moser. This disciplinary proceeding was commenced by the filing of a Disciplinary Petition by the Board of Overseers of the Bar through Bar Counsel on November 2, 2007.

At the disciplinary hearing, the Board was represented by Assistant Bar Counsel Aria eee, and Respondent (Attorney Moser) was present and represented by James M. Bowie, Esq. Joint Exhibits 1 and 2, the Board's exhibits marked Board Exh. 1-29, and Respondent's exhibits tabbed 1 through 27, were admitted without objection. The Panel heard testimony from Heather Frederick, Linden Frederick, Lee Woodward, Jr., Esq., and Attorney Moser.

On January 25, 2007, Heather and Linden Frederick filed a complaint regarding the conduct of Attorney Moser, their former attorney and neighbor. In their complaint, the Fredericks alleged conflict of interest, dishonesty, and conduct unbecoming of an attorney.

In his answer to the complaint, Attorney Moser acknowledged having worked with the local bank and the Fredericks during his 1992 representation of them. Attorney Moser also acknowledged his 2004 demand for significant financial compensation in exchange for a release of his property interests in the land constituting Fredericks' home site, then under contract to be sold. Attorney Moser denied that he had committed any violations of the Code of Professional Responsibility, and requested that the Board dismiss the complaint.

On January 28, 2008, the parties participated in a full day of evidentiary hearing. Thereafter, the Board and Attorney Moser elected to conclude the contested hearing and instead, negotiate a final proposed disposition of the bar complaint.

To that end, the parties stipulate, and the Panel so finds, the following:

1) Due to the potential conflict between him and the Fredericks, Attorney Moser should not have undertaken the 1992 representation of the Fredericks during the re-financing of their residential property. In doing so, Attorney Moser's personal interests became potentially adverse to the Fredericks due to a previous restrictive covenant in favor of Attorney Moser (which Attorney Moser had drafted in 1974) likely affecting the property.

2) Moreover, the evidence adduced at hearing detailed Attorney Moser's work as a title insurance agent during the time of the Fredericks' 1992 refinancing. As such, he had fiduciary responsibilities toward both the Fredericks and the title company. While there are obvious differences in the manner which Attorney Moser performed his duties (as compared to the credible testimony of the Frederick's 2004 counsel) it is clear that Moser's discharge of those duties resulted in further complications for the Fredericks' 2004 sale. Based upon Attorney Moser's testimony at the disciplinary hearing, it did not appear that during his representation of the Fredericks, Attorney Moser had complied with his fiduciary duties. Nor did it appear that

Attorney Moser complied with M. Bar R. 3.4(a) requiring him to disclose the potential conflict to his then clients, the Fredericks and/or Camden National Bank.

3) Specifically, during the Fredericks' 2004 contract to sell their home, the title agents for the new buyers approached Attorney Moser in order to secure his release for the potential rights he held vis-à-vis the Fredericks' property. The Panel notes that it would have been reasonable, under the circumstances, for Respondent to agree to release his rights in the existing structure then comprising the Fredericks' home, given the fact that by 2004, that home had been in existence for nearly fourteen (14) years.

However, Attorney Moser did not immediately respond to any request that he release his potential property rights. He did not answer the Fredericks' repeated requests for information and he did not explain why there was a delay. Attorney Moser did refer the matter to his law partner, who ultimately negotiated with the Fredericks' counsel just before their scheduled real estate closing. Following those negotiations, the Fredericks paid Attorney Moser \$20,000 to release any interest he still claimed in their Northport property.

4) At the very least, Attorney Moser should have agreed to exonerate the existing buildings on his former clients' property. Instead, for the first time, Attorney Moser vocalized an ownership interest in the Fredericks' property, and he refused to release that interest until the Fredericks paid for that release.

5) As the parties litigated the 2008 disciplinary proceeding, Attorney Moser came to realize his error. In sum, Attorney Moser agreed that in 1992, it was his responsibility to disclose the conflict to his clients (the Fredericks and the bank) and as a consequence, obtain their consent or decline the new representation. It became clear during the proceeding that Attorney Moser's failure to define the scope of his 1992 representation, either in an engagement

letter or in his subsequent bills, resulted in further confusion about the work he performed for the Fredericks, the bank, and the title insurance carrier. See Maine Bar Rule 3.4 (a), (b),(c).

6) Attorney Moser has also acknowledged that his failure in 2004 to immediately clarify what, if any, actions he intended to take with regard to releasing his interest created unnecessary stress and frustration for his former clients. See Maine Bar Rule 3.2 (f)(4).

Based upon the above-outlined facts and the parties' proposal, the Panel finds that Attorney Moser violated Maine Bar Rules 3.1(a); 3.2(f)(4); 3.4(a)(1),(2) and 3.4(f)(1).

As a result of these events, Attorney Moser has reconsidered his actions and apologized to the Fredericks for the distress those actions caused them. Attorney Moser acknowledges that he must adhere to professional standards governing the practice of law. Attorney Moser agrees that he will participate in continuing legal education related to conflicts analysis, real estate law (including a drafting component), and fiduciary relationships.

PRIOR HISTORY

Attorney Moser has no prior disciplinary record on file with the Board of Overseers of the Bar.

SANCTION

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 Moser agrees that he did in fact, violate the Code of Professional Responsibility, the Panel agrees that a reprimand is sufficient to ensure Attorney Moser's further compliance with the Maine Bar Rules.

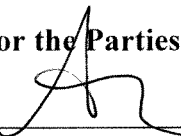
In addition, Attorney Moser shall, within twelve (12) months of the date of this Report, participate in one or more live CLE courses that address conflicts analysis, real estate law, and fiduciary relationships. Finally, Attorney Moser has agreed and is directed to pay the expert fees/expenses associated with Attorney Paul Mills' involvement in the Board's prosecution of this proceeding.

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

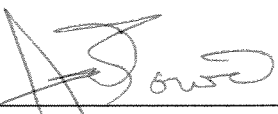
It is therefore ORDERED that Joseph D. Moser, Esq. is hereby reprimanded for his violations of Maine Bar Rules 3.1(a); 3.2(f)(4); 3.4(a)(1),(2) and 3.4(f)(1).

Dated: February 15, 2008

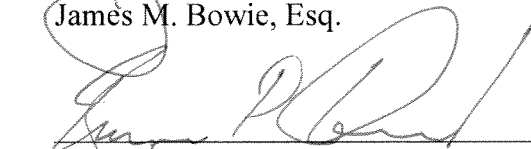
For the Parties



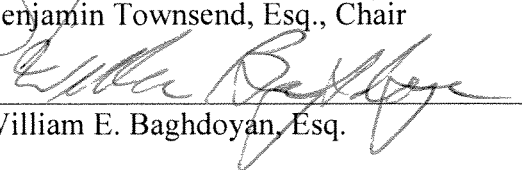
Aria eee, Assistant Bar Counsel




James M. Bowie, Esq.



Benjamin Townsend, Esq., Chair



William E. Baghdoyan, Esq.



David Nyberg, Ph.D.