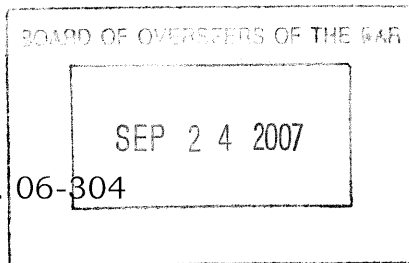


STATE OF MAINE

Board of Overseers of the Bar

File No. 06-304



BOARD OF OVERSEERS OF THE BAR )  
 )  
 Petitioner )  
 v. )  
 )  
 JOEL C. VINCENT, ESQ. )  
 of Portland, Maine )  
 Me. Bar No. 3488 )  
 )  
 Respondent )

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

On September 24, 2007, with due notice, Panel D of the Grievance Commission conducted a public disciplinary hearing pursuant to Maine Bar Rule 7.1(e)(2)(E), concerning misconduct by the Respondent, Joel C. Vincent, 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 August 2, 2007.

At the hearing, Attorney Vincent appeared, *pro se* and the Board was represented by Assistant Bar Counsel, Aria eee. The complainant, Robert W. Marion III, had been provided with a copy of this Report (in its proposal form) but was not present. Prior to the disciplinary proceeding, the parties had submitted a stipulated, proposed sanction order 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 Joel Vincent (Vincent) of Portland, County of Cumberland, 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 Vincent was admitted to the Maine bar in 1987 and he is a member in good standing.

On July 30, 2006 Robert W. Marion III filed a complaint with the Board against Attorney Vincent alleging that Vincent failed to prosecute Mr. Marion's criminal appeal.

On August 25, 2006, Attorney Vincent filed his response to the complaint, providing background information on his representation of Mr. Marion. Vincent recounted how his client's sentence appeal had been denied by the First Circuit Court of Appeals and how Mr. Marion had subsequently filed a Petition for Certiorari with the U.S. Supreme Court on a *pro se* basis. In his response to the complaint, Attorney Vincent admitted to failing to comply with his duties as counsel by 1) either providing Mr. Marion with continued representation on the Petition for Certiorari or 2) notifying Mr. Marion in a timely manner that in Attorney Vincent's opinion, the Petition would be frivolous, therefore, warranting Attorney Vincent's withdrawal as counsel. Attorney Vincent further admitted his neglect in failing to immediately respond to Mr. Marion's letters. Once he discovered his errors, Attorney Vincent did notify his client and offered to assist him in any way that remained possible.

Ultimately, Mr. Marion completed the filing of the Petition without requesting further assistance from Attorney Vincent.

A review of the materials from the Board's investigation reveals that prior to his above-outlined failure Attorney Vincent appropriately and adequately represented Mr. Marion throughout the proceedings, including Marion's initial appeal. Likewise, the Board found, and the Grievance Commission now agrees and affirms, that Attorney Vincent's response to the bar complaint was forthright and he expressed sincere regret and remorse for his errors in Mr. Marion's case.

On December 21, 2006 the complaint and responses were reviewed by a Panel of the Grievance Commission. The panel found that probable cause existed that Attorney Vincent had engaged in misconduct subject to sanction under the Bar Rules. The Panel directed Bar Counsel to prepare and file a formal Disciplinary Petition before another panel of the Grievance Commission.

After discussion between the parties, the Board filed a Stipulated Disciplinary Petition on August 2, 2007. The parties generally agreed to a finding of misconduct as referenced in the Disciplinary Petition.

To that end, Attorney Vincent acknowledges that his failure to prosecute his client's Petition or in the alternative, to withdraw from the representation (due to Vincent's belief that the Petition was frivolous) and to timely communicate with Mr. Marion constituted violations of the Code of Professional Responsibility. Specifically, those violations involved Maine Bar Rules 3.1(a)

(conduct unworthy of an attorney) and 3.6(a)(3) (neglect of a legal matter entrusted to the lawyer).

### **CONCLUSION AND SANCTION**

The Code of Professional Responsibility specifically requires attorneys to uphold their responsibilities to clients and the courts. Due to Attorney Vincent's above-outlined failures, Mr. Marion's only option was to proceed *pro se* on his Petition for Writ of Certiorari. Although the Grievance Commission is not convinced that the Petition would have been accepted by the U.S. Supreme Court, Mr. Marion nonetheless deserved a chance for the Court to decide that question after having the benefit of counsel's assistance.

The panel notes that Attorney Vincent has taken full responsibility for his actions and the unfair result to Mr. Marion. From the beginning, Attorney Vincent has been remorseful and apologetic for his violations of the Code of Professional Responsibility. To his credit, Attorney Vincent previously disclosed his failures and apologized to Mr. Marion even before the filing of the bar complaint.

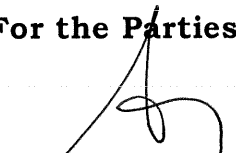
M. Bar. R. 2(a) provides that the purpose of bar disciplinary proceedings is not punishment, but rather the protection of the public from attorneys who, by their conduct, have demonstrated that they are unable, or likely to be unable, to discharge properly their professional duties. Since the evidence supports a finding and Attorney Vincent agrees that he did in fact violate the Code of Professional Responsibility, it appears that a public reprimand serves

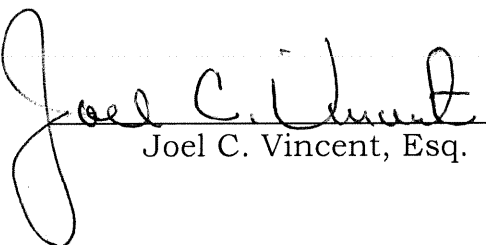
those purposes. Attorney Vincent has no history of professional discipline and since the time that the misconduct occurred there have been substantial changes in his office structuring and office management procedures. Based upon his well-established diligence as a criminal defense lawyer and his sincere response to having failed Mr. Marion, the Panel finds that it is unlikely that Attorney Vincent will repeat the same behavior in the future.

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

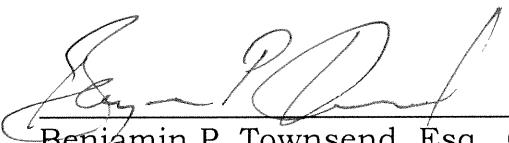
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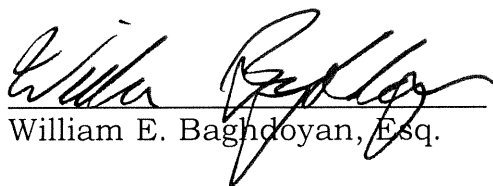
**For the Parties**

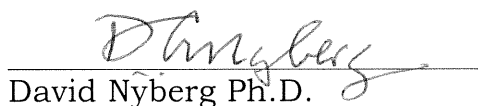
  
\_\_\_\_\_  
Aria eee, Assistant Bar Counsel

  
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Joel C. Vincent, Esq.

**Grievance Commission Panel**

  
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Benjamin P. Townsend, Esq., Chair

  
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William E. Baghdoyan, Esq.

  
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David Nyberg Ph.D.