

STATE OF MAINE

Kennebec, ss.

Board of Overseers of the Bar
Grievance Commission
File No. 02-159

BOARD OF OVERSEERS OF THE BAR)

Petitioner)

v.)

**REPORT OF FINDINGS
OF PANEL D OF
THE GRIEVANCE
COMMISSION**

FRANK B. WALKER, ESQ.)
of ELLSWORTH, Maine)
Me. Bar #58)

Respondent)
)

On July 11, 2003 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, Frank B. Walker, Esq. of Ellsworth, Maine. This disciplinary proceeding was commenced by the filing of a Petition by the Board of Overseers of the Bar on May 27, 2003.

Assistant Bar Counsel, Nora Sosnoff, represented the Board and Attorney Nathan Dane III, Esq. represented the Respondent, Attorney Frank B. Walker, of Ellsworth at that hearing. Attorneys Dane and Walker participated by speaker phone, at their request. The complainant, Mr. Alton L. Cook of Virginia Beach, Virginia, received advance notice of the proceeding and the proposed disposition from Assistant Bar Counsel. He also participated by speaker phone.

The Panel hereby makes the following findings pursuant to the stipulation of the parties:

FINDINGS

1. Respondent Frank B. Walker (Attorney Walker) of Ellsworth, County of Hancock, 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.

2. Attorney Walker was admitted to the Maine Bar in 1961. He is a sole practitioner having an office in Ellsworth, Maine. Attorney Walker has received two prior reprimands under the Maine Bar Rules, one in 1991 and one in 2000.

3. In the decade of the 1990's Attorney Walker experienced the convergence of several serious personal difficulties, including health problems. As a result, his ability to concentrate on his law practice was severely compromised. His two prior reprimands, as well as this one, have their origin in conduct that occurred during that period.

4. Attorney Walker has assured the Grievance Commission Panel that he has taken concrete steps to change the course of his life and law practice; that these steps are effective; and that he is committed to continuing them so that he does not repeat the course of conduct that led to this legitimate grievance by Mr. Cook. In stipulating to the findings and disposition of this case, Walker has promised the Panel that the corrective measures he has implemented will remain in effect permanently. Specifically: (i) Walker is receiving effective professional attention for his personal and health difficulties; (ii) Walker has chosen to limit the

scope of his law practice to one area of law, transactional real estate; (iii) He does not, and will not, undertake any litigation; and (iv) He has established a close relationship with another Ellsworth law firm, Foster Law Offices, that offers him back up coverage, consultation on substantive areas of law, and accepts referrals from him for matters that he is unable to handle.

5. The unfortunate fact remains, however, that Attorney Walker's past handling of the matter complained about by Mr. Cook, violated Maine Bar Rules 3.1(a) and 3.6(a)(3).

6. On October 2, 2000, the Ellsworth District Court dismissed, with prejudice, Mr. Cook's Complaint to Quiet Title to certain Hancock County real estate, on account of Attorney Walker's inattention and inaction.

7. During the first year of representation, between September 1997 and September 1998 Attorney Walker took appropriate action on his clients' behalf, including filing a complaint, making service of process, negotiating settlement and keeping the clients apprised of the status of their matter. However, this does not excuse his subsequent neglect of the action to quiet title, which ultimately led to its prejudicial dismissal for want of prosecution.

8. Attorney Walker is apologetic to Mr. Cook for his misconduct.

CONCLUSION AND SANCTION

The Panel concludes therefore that in his representation of Mr. Cook regarding an action to quiet title to real estate, Attorney Frank B. Walker of Ellsworth engaged in professional misconduct in violation of Maine Bar Rules

3.1(a) and 3.6(a)(3) by reason of inattention and inaction, leading to the entry of judgment with prejudice against Mr. Cook.

The past misconduct cannot be excused. Future incidents of similar misconduct must be prevented. The Panel is satisfied that the specific plan for prevention is made in good faith and currently is effective, that plan being: (i) Walker is receiving effective professional attention for his personal and health difficulties; (ii) Walker has chosen permanently to limit the scope of his law practice to one area of law, transactional real estate; (iii) Walker does not, and will not, undertake any litigation at any time in the future; and (iv) Walker has established a close relationship with another Ellsworth law firm that offers him back up coverage, consultation on substantive areas of law, and accepts referrals from him for matters that he is unable to handle. Any failure by Walker to adhere to this plan for prevention shall be grounds for further review of this matter by a panel of the Grievance Commission.

The appropriate disposition of this case is a public reprimand to Attorney Frank B. Walker of Ellsworth, and it is hereby imposed.

Dated: July 11, 2003

Patricia Ender, Esq., Chair
Panel D Grievance Commission

Theodore Hoch, Esq.

David Nyberg, Ph.D.