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STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

SUPREME JUDICIAL COURT

DOCKET NO. BAR-23-9

BOARD OF OVERSEERS OF THE BAR)
Plaintiff)
v.)
JASON R. BUCKLEY)
of Bloomfield, CT)
Me. Bar #004070)
Defendant)

**ORDER ON
MOTION FOR SANCTIONS
M. Bar R. 21**

On April 14, 2023, the Plaintiff, Board of Overseers of the Bar, served a disciplinary Information on Defendant, Jason R. Buckley, of Bloomfield, CT. Defendant failed to answer and on May 19, 2023, the Court entered an Order granting Plaintiff's Motion for Default and ordered that the allegations in the Information were deemed admitted. M. Bar R. 20(a).

FACTS

Plaintiff is the Board of Overseers of the Bar (the Board). Defendant Jason R. Buckley, of Bloomfield, CT, is and was at all times relevant hereto an attorney duly admitted to and engaging in the practice of law, with the exception that he was administratively suspended in 2020. As such, he is subject to the Maine Rules of Professional Conduct and the Maine Bar Rules.

Defendant was admitted to the Maine Bar in 2007. The allegations in the Information which are deemed admitted are as follows. In 2023 Defendant submitted to the Board of Overseers proof of Continuing Legal Education (CLE) credits in an attempt to reinstate his license, which had been under administrative suspension since 2020. The material Defendant submitted

showed that he was attempting to get credit for two live webcasts that occurred simultaneously on June 16, 2022. In his September 2, 2022, response to the resulting *sua sponte* complaint, Defendant stated that he attended the June 16th programs using a computer and an iPad. Defendant stated that he did not realize that attending multiple CLEs simultaneously was a violation of the Bar Rules and that if he had known as much, he would not have done so. Bar Counsel received additional information that on June 17, 2022, Defendant attended a live webcast that ran for 4:40 hours, beginning at 12:39 p.m. and viewed an on-demand CLE that began at 1:06 p.m. and ran for 6:39 hours.

Defendant's default has established the above facts and established violations of M.R. Prof. Conduct 8.4(c) and M. Bar R. 5(a), (f)(1).

DISCUSSION

Maine Bar Rule 21, Sanctions, describes the grounds for discipline, the types of sanctions which may be imposed for ethical misconduct and the factors which the Court must consider when determining which sanction or sanctions are appropriate for imposition upon a defendant. M. Bar R. 21. Maine Bar Rule 21(c) requires the Court to consider four factors as enumerated in the ABA Standards for Imposing Lawyer Sanctions (ABA Standards). See *Bd. of Overseers of the Bar v. Prolman*, 2018 ME 128, ¶ 25, 193 A.3d 808. The four factors are (1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession; (2) whether the lawyer acted intentionally, knowingly, or negligently; (3) the amount of the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of any aggravating or mitigating

factors. M. Bar R. 21(c); *Bd. of Overseers of the Bar v. Donald F. Brown, Esq.*, BAR 22-02 (October 4, 2022).

In applying the ABA Standards, referenced in Bar Rule 21(c), the presumptive sanctions for intentional acts of misconduct require the imposition of more significant sanctions than for misconduct which is committed knowingly, or negligently. Generally, the most severe sanction of disbarment is reserved for intentional acts of misconduct. *ABA Annotated Standards for Imposing Lawyer Sanctions (ABA Annotated Standards)*, Standard 2.2 and Annotation. Suspension of a lawyer's privilege to practice law is generally appropriate for instances of knowing misconduct. *ABA Annotated Standards*, Standard 2.3 and Annotation. Finally, reprimand is generally appropriate for instances of negligent misconduct. *ABA Annotated Standards*, Standard 2.5 and Annotation. The considerations of who the duty violated is owed to; the actual amount of injury, or potential injury, to a client, the public, the legal system or the profession; and any aggravating and mitigating factors present, all factor into a determination of the ultimate sanction to be imposed under Rule 21(c). M. Bar R. 21(c).

In *Bd. v. Brown*, BAR 22-02, the court imposed sanctions on Brown for, *inter alia*, misrepresenting his completion of "live" CLE segments to the Board, when his legal assistant had completed the programs using his login credentials. The court first applied ABA Standard 3.0(a), requiring consideration of the duty violated. The court concluded that the misrepresentations did not involve any individual client and were not made in the course of a legal proceeding. The court, therefore, found that the violation did not implicate Standards 4.0

(violations of duties owed to clients) and 6.0 (violations of duties owed to the legal system). The court found that the violation impacted an attorney's duty to the public, implicated Standard 5.0 (violations of duties owed to the public) and primarily implicated an attorney's duties to the profession under Standard 7.0 (violations of duties owed to the profession). *Bd. v. Brown*, BAR 22-02, at 3 (citing *ABA Annotated Standards*, at 388-389).

The *Brown* court then considered whether Brown acted intentionally, knowingly or negligently, citing to Bar Rule 21(c)(2) and ABA Standard 3.0(b). BAR 22-02, at 3. The court concluded that Brown had acted "intelligently [sic] or knowingly." *Bd. v. Brown*, BAR 22-02, at 3. The court addressed the requirement pursuant to Bar Rule 21(c)(3) and ABA Standard 3.0(c) to consider the actual or potential injury caused by the attorney's conduct. The court cited to the Bar Rules' statement that to "maintain public confidence in the profession and the rule of law, and to promote the fair administration of justice, attorneys must be competent regarding the law, legal and practice-oriented skills, the standards and ethical obligations of the legal profession, and the management of their practices." M. Bar R. 5(a). The court also noted that attorneys failing to comply with CLE requirements are subject to administrative suspension under the Bar Rules. M. Bar R. 4(g), (h); 5(l). *Bd. v. Brown*, BAR 22-02, 4. Given these requirements under the Bar Rules, the court found that failing to comply with the CLE requirements by misrepresenting completion of CLE courses caused injury to the public and to the profession.

The court found that Standard 7.2 applied. *Bd. v. Brown*, BAR 22-02, at 4. Standard 7.2 states that suspension is generally appropriate when an attorney engages in conduct that is a violation of the duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system. *Bd. v. Brown*, BAR 22-02, at 4. Given the court's findings that Brown acted knowingly or intentionally, that he violated a duty to the public and the profession and that he caused injury or potential injury to the public or the legal system, the court started with a presumptive sanction of suspension. In determining whether to issue a reprimand instead of a suspension, given the abstract nature of the injury, the court considered aggravating and mitigating factors in Standards 9.22 and 9.23. *Bd. v. Brown*, BAR 22-02, at 4.

The *Brown* court looked at aggravating factors, including dishonest motive and multiple offenses. *Bd. v. Brown*, BAR 22-02, at 5. The court also considered the aggravating factor of failure to acknowledge fault. *Id.* Here, although Defendant acknowledged in his response to the *sua sponte* complaint that he had committed the acts set forth in the complaint, he qualified any acceptance of responsibility by stating that he did not know he was not allowed to watch two CLE courses at the same time. Additionally, Defendant did not file an answer to the Information, thus failing to acknowledge fault to this Court. The Bar Rules are clear that "Credit hours will be awarded on the basis of one credit hour for every 60 minutes spent engaged in an accredited program, unless otherwise specified." M. Bar R. 5(f)(1). Defendant has not acknowledged fault in this matter and that failure is an aggravating factor.

Defendant has also failed to present any mitigating factors. Standard 9.32. The court in *Brown* suspended the suspension for various reasons that do not exist in this case, including the impact on the public. *Bd. v. Brown*, BAR 22-02, at 5. The appropriate sanction in this case is suspension.

Here, Defendant can present no evidence that any clients would be negatively impacted by the loss of his representation. He has been under administrative suspension in Maine since 2020 and, therefore, cannot have any clients. There is no reason to suspend a suspension in this matter.

CONCLUSION


Pursuant to Maine Bar Rule 21(c) and the ABA Standards, and the analysis conducted in *Bd. v. Brown*, BAR 22-02, the appropriate sanction for Defendant's misconduct is a one-year period of suspension from the practice of law. An application of the factors required by Bar Rule 21(c), namely the violation of the duty owed, the Defendant's mental state, the actual or potential injury, and the aggravating and mitigating factors present, do not justify imposition of any lesser sanction for Defendant's misconduct.

The primary concern for the Board of Overseers is the protection of the public, and the assurance that if Defendant should again seek to practice law, his circumstances would allow him to diligently and competently represent future clients. The only means available to the Board, and to the Court, of ensuring protection of the public is to impose a suspension in excess of six months that requires Defendant to apply for readmission to the Bar pursuant to

Maine Bar Rule 29. Pursuant to *Bd. v. Brown*, the suspension period should be one year.

It is hereby ORDERED that Defendant is suspended for a period of one year, with none of that period suspended. Pursuant to M. Bar R. 29, Defendant must seek Court approval prior to any reinstatement to the Bar. The clerk shall enter this order on the docket.

Dated: Sept. 7, 2023



Justice Thomas McKeon
Sitting as Single Justice by designation

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Maine Supreme Judicial Court