

New Hampshire Supreme Court
Professional Conduct Committee

a committee of the attorney discipline system

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In the Matter of Michael T. Pearson, Esquire – LD-2015-0008

PUBLIC CENSURE

In accordance with Supreme Court Rule 37(12), on September 11, 2015, the New Hampshire Supreme Court ruled that the above captioned reciprocal discipline matter from the Grievance Commission of the Maine Board of Overseers of the Bar warrants the issuance of a public censure. The Court remanded the matter to the Professional Conduct Committee for the issuance of a public censure.

I. FACTS

Michael T. Pearson of Dover, New Hampshire was admitted to the Maine Bar in March 1992. While living in Ohio, he was administratively suspended in Maine in late 1995 until being reinstated in February 2005. His primary law practice is located in New Hampshire. He is currently registered in the Maine Board's records as an administratively suspended attorney in Maine and thereby prohibited from practicing law in Maine. He was so suspended by the Maine Board on November 13, 2013 due to his failure to properly register and/or comply with related administrative requirements with the Board under the Maine Bar Rules for fiscal (and registration) year 2013.

Prior to his 2013 suspension, Mr. Pearson had been registered as an active, non-resident Maine attorney. As such, he was and remains subject to the Maine Bar Rules and the Maine Rules of Professional Conduct. By the time of his misconduct in the complaint matter, Mr. Pearson was subject to the administrative suspension.

The disciplinary matter was commenced through Bar Counsel's receipt of information reporting that on December 18, 2013 that Mr. Pearson had engaged in the unauthorized practice

of law in Maine. That action occurred in a contested family matter pending in the Portland District Court, *Jeff O'Brien v. Cyrena Gilpatrick*, Docket No. PORDC-FM-2013-201. As a result of his engaging in that court litigation while suspended from practice in Maine, Mr. Pearson violated M. Bar R. 6(a)(1) and M. R. Prof. Conduct 5.5(a)(b) and 8.4(a)(d).

In his initial discussion with the Maine Board's administrative staff, Mr. Pearson claimed a prior lack of awareness of being so suspended in Maine. In his January 28, 2014 response letter to Bar Counsel, he admitted that on December 18, 2013 he appeared in the Portland District Court in a client's family matter, and later filed pleadings or related documents in that action on December 27, 2013. He reinstated that same admission of his misconduct to the Grievance Commission Panel at the November 6, 2014 hearing.

By his failure to answer the Maine Board's formal charges, Mr. Pearson has further constructively admitted that because he had knowingly failed to properly register in Maine for 2013, he is presumed to know that he would be suspended in Maine pursuant to the Maine Bar Rules. He has also admitted that given his longstanding bar membership in Maine (since 1992), he knew or should have known the registration/renewal calendar cycle and related dues states spanning late July into August of each year. In addition, to the extent that a change in his mailing address may have been relevant to his being so suspended, Mr. Pearson has admitted he knew that under Maine Bar Rules he was required to so notify the Board of his new address, but failed to do so at the proper and required time. His conduct violated Maine Bar Rule 6(a) as well as M. R. Prof. Conduct 8.4(a)(d).

Based on the facts and admissions set forth above, Mr. Pearson agrees and admits that he engaged in violations of Maine Bar Rule 6(a)(1) and Maine Rules of Professional Conduct, Rules 1.3; 5.5(a)(b); and 8.4(a)(d).

II. RULINGS OF LAW

The Maine Rules of Professional Conduct require attorneys to uphold their responsibilities to the public, clients and the courts. Due to Mr. Pearson's action, a court, opposing counsel, members of the public, colleagues and unsuspecting clients were misled to believe he was properly licensed to practice law in Maine. Moreover, due to his misrepresentation, a District Court judge understood and assumed status information that Mr. Pearson knew or should have known was inaccurate regarding his proper licensure and ability to practice law in Maine.

The Maine Panel notes that Mr. Pearson has taken responsibility for his misconduct. He has no prior attorney disciplinary or sanction record in Maine. At the disciplinary hearing, Mr. Pearson expressed his remorse for his serious violations of the Maine Bar Rules and the Maine Rules of Professional Conduct.

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 to discharge properly their professional duties. Since the evidence supports a finding and Mr. Pearson agrees that he did in fact violate the Maine Bar

Rules and the Maine Rules of Professional Conduct, the Maine Panel finds that a public reprimand serves those purposes.

III. ANALYSIS

The panel found that a Public Reprimand is the appropriate sanction, which was issued on November 6, 2014.

IV. SANCTION

The Professional Conduct Committee deliberated the matter on July 21, 2015, and recommended to the Court that for purposes of reciprocal discipline, a sanction of public censure is the equivalent to a public reprimand imposed by the State of Maine Grievance Commission, Board of Overseers. The Court concluded that a public censure is warranted, and the Committee hereby issues a Public Censure.

V. COSTS

Mr. Pearson shall be responsible for the expenses incurred by the Committee in the investigation and enforcement of this disciplinary matter. *See* Sup. Ct. R. 37(19)(b). Costs can include, but are not limited to: copying and costs associated with the publication of the censure. The assessment of costs shall become final unless Mr. Pearson responds in writing, within thirty (30) days of receipt of the Committee's statement of expenses, listing each disputed expense and explaining the reasons for disagreement. Sup. Ct. R. 37(19)(b). The Committee may resolve the disagreement, or enforce the assessment of costs by petition to the superior court in any county in the state. Sup. Ct. R. 37(19)(b).

The Committee may file a copy of the final assessment of costs with the superior court in any county in the state, where it shall be docketed as a final judgment and shall be subject to all legally-available post-judgment enforcement remedies and procedures. *See* Sup. Ct. R. 37(19)(c). Mr. Pearson shall be responsible for any costs incurred as a result of the Attorney Discipline Office's collection efforts.

September 15, 2014



David M. Rothstein, Chair

Distribution:

Michael T. Pearson, Esquire
Janet F. DeVito, General Counsel
File

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October 1, 2015

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Michael T. Pearson, Esquire
Pearson Legal PLLC
2 Patriot Drive
Dover, New Hampshire 03820

Re: *In the Matter of Michael T. Pearson, Esquire – LD-2015-0008*

Dear Ms. DeVito and Mr. Pearson:

It has been brought to my attention that the date the Public Censure was signed has the wrong year. Please note that the date the Public Censure was signed is **September 15, 2015**.

Sincerely,


Barbara J. Guay
Legal Assistant