BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED
AUG 04 2009
LESLIE W. STEEN
CLERK

IN RE: CHERYL K. MAPLES, Respondent
Arkansas Bar ID#87109
CPC Docket No. 2009-028

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee on January 30, 2009 by Barbara Field, an Investigator with the State Bar of California. The information related to Cheryl K. Maples' conduct in a court proceeding in California and her unauthorized practice of law in California.

On March 13, 2009, Respondent was served with a formal complaint, supported by documents provided by Ms. Field. After an extension of time to do so, Respondent filed a timely response and the matter proceeded to ballot vote pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law.

The information before the Committee reflected that on May 22, 2008, Cheryl K. Maples, an attorney practicing law in Arkansas, filed a Complaint for Damages in the Superior Court of California For the County of Los Angeles, West District. Ms. Maples is not licensed to practice law in California. She placed the name of John Joseph Petruccelli on her filing as co-counsel because he was licensed to law in California. However, at the time of her filing Mr. Petruccelli was not actively licensed to practice law in California.

After service of process of the Complaint on the Defendants, notice was sent to the Office of Intake of the State Bar of California reporting the filing undertaken by Ms. Maples. On August 20, 2008, Defendant, through counsel, filed a Motion to Strike and Memorandum of Points and Authorities in Support of Motion to Strike. According to the Motion, Ms. Maples'

conduct in signing and filing the Complaint is conduct which is a misdemeanor under California law. The filing of the Complaint itself was the unauthorized practice of law by Ms. Maples in the State of California. A hearing was scheduled on the Motion to Strike for October 2, 2008. Ms. Maples had notice of the hearing but did not appear nor file any response prior to that date.

On October 2, 2008, the hearing on the Motion to Strike was heard. Ms. Maples failed to appear or participate in the hearing. The ruling was that the matter be dismissed. Four (4) days later Ms. Maples' request to dismiss the matter without prejudice was filed. During the course of matters which arose because of Ms. Maples' actions, she provided an unsworn Affidavit concerning her conduct. She admitted in the Affidavit that she had not discussed the filing of the lawsuit with Mr. Petruccelli. She also explained that she was not aware of his inactive status in California. Ms. Maples accepted all fault for what occurred.

In responding to the formal disciplinary complaint, Ms. Maples stated that when the Complaint was signed and mailed to the Court in California for filing, Mr. Petrucelli was an active licensed attorney in California. Ms. Maples asserted that she was ready to file her application for pro hac vice when she was notified of Mr. Petrucelli's inactive status. Ms. Maples denied violating any of the alleged Rules of Professional Conduct as set out in the formal disciplinary complaint.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Ms. Maples' conduct violated Rule 1.1 because she was not thorough enough in her representation of John Does 1-4 to familiarize herself with California law, in that she did

not know that a California attorney, currently licensed and active, has to sign the pleadings for them to be effective in California and she was not thorough enough in her representation of of John Does 1 - 4 to be certain that Mr. Petruccelli was an active member of the bar in California at the time in order to be the attorney of record on her clients behalf. Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Ms. Maples' conduct violated Rule 1.3 when she failed to communicate with Mr. Petruccelli in the matter from November 2007 until May 2008 in order to be certain that he remained an active member of the State Bar of California so that he could effectively be counsel of record for her clients, and when she failed to file any response to the Motion to Strike filed by counsel for the defendants in the lawsuit she brought in California in behalf of her clients, John Does 1 - 4. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. That Ms. Maples' conduct violated Rule 3.4(c), when she practiced law in California by filing the Complaint in Superior Court in May 2008, although she is not an active member of the State Bar of California, and without counsel who was an active member, in violation of California Business and Professional Code Section 6125, and she violated California Business and Professional Code Section 6126(a) when she acted as signatory on the Complaint filed because by doing so she held herself out as practicing or entitled to practice law or otherwise practiced law in California when she was not an active member of the State Bar, nor otherwise authorized pursuant to state or court rule to practice law in the State of California. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a

tribunal except for an open refusal based on an assertion that no valid obligation exists.

4. That Ms. Maples' conduct violated Rule 5.5(a) when she engaged in the practice of law in the State of California in violation of the regulation of the legal profession in that State. Rule 5.5(a) requires that a lawyer not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

5. That Ms. Maples' conduct violated Rule 8.4(d) because her failure to comply with all provisions of California law with regard to the filing of a Complaint and signing pleadings in the Courts of California caused her clients matter to be dismissed and because her failure to communicate with Mr. Petruccelli before filing the action in California on behalf of her clients caused him to be subject to possible disciplinary proceedings in California. Rule 8.4(d) requires that a lawyer not engage in conduct prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that CHERYL KATHLEEN MAPLES, Arkansas Bar ID#87109, be, and hereby is, CAUTIONED for her conduct in this matter. Pursuant to Section 18.A of the Procedures, Ms. Maples is assessed the costs of this proceeding in the amount of FIFTY DOLLARS ($50). The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: Valerie L. Kelly
Valerie Kelly, Chair, Panel B
Date: June 30, 2009