

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
06/22/2020
Clerk of the
Appellate Courts

IN RE: ANDREW HARRISON MALONEY, BPR #028722

An Attorney Licensed to Practice Law in Tennessee
(Davidson County)

No. M2020-00821-SC-BAR-BP
BOPR No. 2019-3046-5-JM

ORDER OF ENFORCEMENT

This matter is before the Court upon a Petition for Discipline against Mr. Maloney on October 18, 2019; upon the Answer to Petition for Discipline filed by Mr. Maloney on November 18, 2019; upon the Conditional Guilty Plea executed by Mr. Maloney on May 29, 2020; upon the Order Recommending Approval of Conditional Guilty Plea entered by the Hearing Panel on June 2, 2020; upon service of the Order Recommending Approval of Conditional Guilty Plea by the Executive Secretary of the Board dated June 2, 2020; upon consideration and approval by the Board on June 5, 2020; and upon the entire record in this cause.

From all of which the Court approves the Order of the Hearing Panel and adopts the Hearing Panel's Order Recommending Approval of Revised Conditional Guilty Plea as the Court's Order.

On September 18, 2019, Mr. Maloney was temporarily suspended by this Court pursuant to Tenn. Sup. Ct. R. 9, § 12.3 (M2019-01472-SC-BAR-BP). To date, Mr. Maloney has not been granted reinstatement.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

(1) Andrew Maloney is suspended from the practice of law for eighteen (18) months, pursuant to Tenn. Sup. Ct. R. 9, § 12.2, with ten (10) months active, and the remainder on probation. Mr. Maloney's active suspension shall be retroactive to September 18, 2019, pursuant to Tenn. Sup. Ct. R. 9, § 12.2(b). Mr. Maloney's probation is subject to the following conditions:

- (a) Mr. Maloney, at his cost, if any, shall engage the services of a Practice Monitor who shall be selected and approved in accordance with Tenn. Sup. Ct. R. 9, § 12.9(c). The Practice Monitor shall meet with Mr. Maloney monthly and assess Mr. Maloney's case load, case management, trust account, compliance with trust account rules, accounting procedures, and office management procedures, in accordance with Tenn. Sup. Ct. R. 9, § 12.9(b). During the probationary period, Mr. Maloney shall reconcile his Trust Account at least monthly and properly account for client funds. In addition, Mr. Maloney, in conjunction with the practice monitor, shall develop a written action plan to appropriately and promptly disburse funds to persons and entities entitled to receive said funds held or controlled by Mr. Maloney, and the practice monitor shall oversee Mr. Maloney's progress in reimbursing third parties entitled to funds pursuant to Paragraph (b) below. Additionally, Mr. Maloney shall ensure that his financial software accounts for all third-party funds received and said funds are maintained in appropriate accounts. The Practice Monitor shall provide a monthly written report to Disciplinary Counsel.
- (b) Mr. Maloney is presently holding funds in escrow from real estate closings believed to be payable to third parties in the amount of \$56,327.60 as itemized on the spreadsheet attached as Exhibit A.¹ Mr. Maloney shall make a good faith effort to contact each individual, corporation or government entity entitled to funds in order to deliver the same. Mr. Maloney shall provide documentation to his practice monitor regarding such efforts to contact the third parties identified on Exhibit A and shall continue such efforts through his probationary period. In the event Mr. Maloney is unable to locate some of the third parties, or such parties do not communicate back to Mr. Maloney regarding the funds entitled to them, Mr. Maloney shall be permitted to escheat those funds to the state of Tennessee at the conclusion of his probation.
- (c) During the period of active suspension and probation, Mr. Maloney shall incur no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation and which result in the recommendation by the Board that discipline be imposed.

¹ The spreadsheet reflects a balance of \$66,327.60. That amount includes \$10,000.00 from File 2016-1187 which was delivered on 10/1/19 as reflected on Exhibit A. As a result, the remaining amount that Mr. Maloney must make a good faith effort to deliver pursuant to this Order is \$56,327.60.

(2) In the event Mr. Maloney fails to meet any condition of probation, the probation may be revoked pursuant to Tenn. Sup. Ct. R. 9, § 14.2.

(3) Prior to seeking reinstatement, Mr. Maloney must have met all CLE requirements; have remitted all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; and have remitted all court costs and Board costs in this matter, subject to section (7) below.

(4) Further, the Order of Temporary Suspension entered on September 18, 2019, in M2019-01472-SC-BAR-BP is hereby dissolved.

(5) Additionally, Mr. Maloney shall comply in all aspects with Tenn. Sup. Ct. R. 9, §§ 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

(6) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon entry.

(7) Pursuant to Tenn. Sup. Ct. R. 9, § 31.3(d), Mr. Maloney shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$3,045.20. Mr. Maloney agrees to pay the amount of Five Hundred and No/100 Dollars (\$500.00) per month, for five (5) months, on the first day of each month after the entry of the Supreme Court's Order of Enforcement, and \$545.20 on the first day of the sixth month after the entry of the Supreme Court's Order of Enforcement. In the event Mr. Maloney fails to make any payment as required herein, the Board may reopen its disciplinary file and conduct further proceedings pursuant to Tenn. Sup. Ct. R. 9, § 12.8.

(8) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM