

IN RE: BRIAN B. MAHONEY, JR.

BBO # 661649

NO. BD-2021-067

Order (Term Suspension/Stayed) entered by Justice Lowy on November 12, 2021.¹

The respondent received a three-month suspension, stayed for one year, based on misconduct in connection with his own divorce proceedings, including the intentional failure to comply with court orders.

SUMMARY²

Following a divorce in Arizona, after the mother and minor daughter moved there from Brockton, Massachusetts, the divorce decree (“Decree”) allowed the respondent/father to have unsupervised visits with his daughter. When the respondent did not comply fully with the terms of the Decree (proof of life insurance and reimbursement for the daughter’s medical expenses), the mother filed a contempt petition against him, which was allowed in November 2018 after a hearing (First Contempt Order). In addition to finding the respondent in contempt, the Arizona Probate Court allowed the mother’s legal fee application for \$17,000 plus interest.

Meanwhile, in October 2018, the respondent filed a petition to enforce the Decree (and for other relief), alleging that the mother had denied him parenting time and was purposefully alienating his daughter from him. The mother then filed her own motion to modify the Decree, alleging that visitation with the respondent would harm the child and seeking to suspend visitation pending study and recommendations by professionals. The Court resolved the competing motions by allowing the respondent supervised parental visits. The Court ordered the respondent to pay the mother’s attorneys’ fees, finding that he had acted unreasonably in certain particulars. There followed a further request by the mother for reimbursement for additional medical bills, and ultimately a second Order for the respondent to pay the mother’s legal bills.

When the respondent did not comply with his payment obligations, the mother then filed a second contempt petition January 15, 2019. The respondent made some payments before the hearing on April 10, 2019. The Court found the respondent to be in contempt of the two prior orders, requiring payment of medical expenses and the mother’s legal fees (Second Contempt Order). The Court also referred the matter to Bar Counsel, noting that the respondent was found “in contempt of court again, within mere months of the last finding of contempt . . .”

After Bar Counsel opened an investigation, the respondent paid all judgments against him. His conduct violated Rules 3.4(c) (knowing disobedience of a court order), 8.4(h) (conduct prejudicial to the administration of justice and 8.4(h) (conduct reflecting adversely on fitness to practice).

¹ The complete order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Massachusetts Board of Bar Overseers’ Office of General Counsel based on the record filed with the Supreme Judicial Court.

In mitigation, at the time of the misconduct, the respondent was severely alienated from his daughter; this alienation worsened his diagnosed anxiety and depression, which interfered meaningfully with his ability to make appropriate decisions in the Arizona divorce proceeding, thereby contributing to his misconduct.

The parties filed a stipulation as to the misconduct and rule violations and jointly recommended to the Board a three-month suspension, stayed for one year, with the following three conditions: (1) the respondent will continue to participate in therapeutic and psychiatric treatment with specific providers; (2) every ninety days thereafter for the duration of the disciplinary order, the respondent will report in writing to bar counsel the status of his treatment and compliance with his providers' recommendations; and (3) the respondent will include with his ninety-day report a letter from his providers stating whether he has continued to receive treatment and whether he has complied with any treatment recommendations. By vote dated September 13, 2021, the Board of Bar Overseers recommended to the S.J.C. that it accept the parties' stipulation to a three-month suspension, stayed for one year, with conditions.

On November 12, 2021, Justice Lowy imposed a three-month suspension, stayed for one year, with the conditions noted above.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2021-067

IN RE: BRIAN B. MAHONEY, JR.

ORDER OF TERM SUSPENSION/STAYED

This matter came before the Court, Lowy, J., on an Information and Record of Proceedings pursuant to S.J.C. Rule 4:01, § 8(6), with the Recommendation and Vote of the Board of Bar Overseers (Board), along with the stipulation of the parties filed by the Board on November 5, 2021. Upon consideration thereof, it is ORDERED that:

1. Brian B. Mahoney, Jr., is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of three (3) months, with the execution of the suspension stayed for one (1) year on the following conditions:

a. The lawyer will continue to participate in therapeutic and psychiatric treatment with Patricia Brady and Dr. Slavenka Mulin in accordance with their recommendations (or comparable providers selected by the

lawyer.

b. Every ninety (90) days for the duration of this order, the lawyer will report in writing to the Office of Bar Counsel the status of his treatment and his compliance with his provider(s) recommendations.

c. The lawyer will include with his ninety (90) day report a letter from his therapeutic and psychiatric treatment provider(s) stating whether the lawyer has indeed continued to receive treatment and complied with any treatment recommendations.

2. The lawyer shall comply with the conditions of this order and remain in compliance throughout the one (1) year probationary period. If the lawyer fails to comply with the conditions of this order, the Office of Bar Counsel may petition this Court for the immediate imposition of the three (3) month suspension.

3. After one (1) year from the entry date of this Order, the lawyer may file an affidavit of compliance with the Office of Bar Counsel and the Clerk of the Supreme Judicial Court for the County of Suffolk, together with proof of his successful completion of the conditions. Upon receipt, and with the assent of the Office of Bar Counsel, the lawyer may then request of

this Court issue an order that he is no longer subject to the three (3) month suspension that gave rise to the petition for discipline.

By the Court, (Lowy, J.)

/s/ Maura S. Doyle

Maura S. Doyle, Clerk

Entered: November 12, 2021