

ORIGINAL

FILED

05/04/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: PR 20-0592

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 20-0592

FILED

MAY 04 2021

Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE MATTER OF MATTHEW LOWY,

An Attorney at Law,

Respondent.

ORDER

On December 10, 2020, the Office of Disciplinary Counsel (ODC) filed a formal disciplinary complaint with the Commission on Practice (Commission) against Montana attorney Matthew Lowy. The disciplinary complaint may be reviewed by any interested person in the office of the Clerk of this Court.

The ODC alleged six counts of misconduct against Lowy arising out of two unrelated matters: Lowy's representation of Justin Palmer in a breach of contract case and Lowy's representation of Christopher Rodgers in a wrongful termination case.

Ultimately, Lowy tendered an admission and affidavit of consent pursuant to Rule 26(B)(3) of the Montana Rules for Lawyer Disciplinary Enforcement (MRLDE) on January 20, 2021. In his tender, Lowy agreed to discipline in the form of a public admonition from the Commission, a three-year term of probation subject to specified conditions, and assessment of costs pursuant to MRLDE 9(C)(4). ODC concurred with Lowy's tendered admission. The Commission heard the matter on April 21, 2021.

On April 27, 2021, the Commission submitted to this Court its Findings of Fact, Conclusions of Law and Recommendation in which it recommended that this Court accept Lowy's conditional admissions and impose discipline in the form agreed to by Lowy.

Having reviewed the applicable Rules, we have determined that this matter is not subject to review by this Court because the forms of discipline imposed do not require this

Court's approval. In this case, Lowy and the Commission agreed upon discipline in the form of a public admonition, probation, and costs. MRLDE 26(A)(1) provides in part that a lawyer against whom a Complaint has been filed may tender to ODC a conditional admission in exchange for a stated form of discipline. An Adjudicatory Panel of the Commission may either approve or reject the tendered admission under MRLDE 26(A)(4). MRLDE 26(A)(4)(a) further provides:

If the tendered admission is approved by the Adjudicatory Panel, such approval shall be final if the stated form of discipline is a letter of caution, a public admonition, probation imposed by an Adjudicatory Panel as provided in Rule 9[(A)(6)]^[1] of these Rules, or any combination of these forms of discipline, with or without imposition of costs of the proceeding; but, in all other instances, the tendered admission shall be subject to approval or rejection by the Supreme Court.

In this case, the Commission approved Lowy's tendered admission and the stated form of discipline is a public admonition, probation as provided for in MRLDE 9(A)(6), and imposition of costs. As such, the Commission's findings, conclusions, and order of discipline are not subject to this Court's review under the applicable Rules.

Based upon the foregoing,

IT IS HEREBY ORDERED:

1. The Commission's Findings of Fact, Conclusions of Law and Recommendation is REMANDED to the Commission with instructions to VACATE the Recommendation,

¹ On October 30, 2020, this Court approved extensive revisions to the Montana Rules for Lawyer Disciplinary Enforcement, effective January 1, 2021. Among the revisions was a reorganization of MRLDE 9. Prior to January 1, 2021, MRLDE 9(C) provided, inter alia, "A lawyer against whom disciplinary proceedings are pending may be placed on probation by the Supreme Court, or, with the lawyer's concurrence, by an Adjudicatory Panel." That provision, along with other provisions relating to probation, is now found at MRLDE 9(A)(6). We have determined that this cross-reference was overlooked in the current revisions and we will correct this provision as part of future revisions to the Montana Rules of Lawyer Disciplinary Enforcement to reference the correct subsection of MRLDE 9.



IMPOSE its Order of Discipline and FILE its Findings of Fact, Conclusions of Law and Order of Discipline with the Clerk of Court in accordance with MRLDE 26(C).

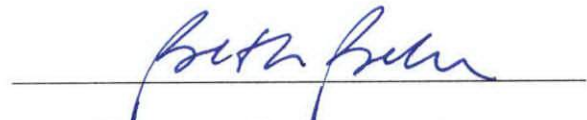



2. Upon filing its Findings of Fact, Conclusions of Law and Order of Discipline with the Clerk of Court pursuant to MRLDE 26(C), the Commission shall file the conditional admission and affidavit of consent pursuant to MRLDE 26(D).

The Clerk of this Court is directed to serve a copy of this Order upon counsel for Matthew Lowy, and to provide copies to Disciplinary Counsel, and the Office Administrator for the Commission on Practice.

DATED this 4th day of May, 2021.


Chief Justice





Justices