

HAROLD R. PITONIAK

v.

BOARD OF OVERSEERS OF THE BAR

Submitted on Briefs December 13, 2013

Decided January 9, 2014

Panel: ALEXANDER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Harold R. Pitoniak appeals from a judgment of the Superior Court (York County, *Fritzsche, J.*) denying his request for records from the Maine Board of Overseers of the Bar pursuant to Maine’s Freedom of Access Act (FOAA), 1 M.R.S. §§ 400-414 (2012). Because the Board is not an “agency or public official” of the State of Maine, its records are not “public records” subject to disclosure pursuant to FOAA. *See* 1 M.R.S. § 402(3); *Moore v. Abbott*, 2008 ME 100, ¶¶ 9-21, 952 A.2d 980. Further, the investigative records sought by Pitoniak are deemed confidential by M. Bar R. 7.1(c)(2) and 7.3(k)(1), and are therefore privileged from disclosure pursuant to 1 M.R.S. § 402(3)(B). Finally, the Board no longer possesses the requested records, and as such “is not required to create a record that does not exist.” 1 M.R.S. § 408-A(6). We find no merit in Pitoniak’s remaining contentions and do not separately address them.

The entry is:

Judgment affirmed.

On the briefs:

Harold E. Pitoniak, pro se appellant

Janet T. Mills, Attorney General, and Scott W. Boak, Asst. Atty. Gen.,
Office of the Attorney General, Augusta, for appellee Board of Overseers of
the Bar

York County Superior Court docket number CV-2012-256
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