

New Hampshire Supreme Court
Professional Conduct Committee

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Robert I. Morgan advs. Virginia Lee Yarus # 05-102

**Six Month Suspension, with Three Months Stayed for Two Years
Contingent on Compliance with Terms and Conditions of
Stipulated Agreement**

On January 16, 2007, the Professional Conduct Committee heard oral argument in the above-referenced matter. Members present were Margaret H. Nelson, Chair; Benette Pizzimenti, Vice Chair and Reporter; Toni M. Gray, Vice Chair; David N. Cole; Gerald A. Daley; David N. Page; Richard H. Darling; Gretchen Rule Hamel and James R. Martin. Thomas P. Connair and Ellen L. Arnold were recused. Alan J. Cronheim was absent. Landya B. McCafferty, Disciplinary Counsel, appeared for the Attorney Discipline Office. Shane R. Stewart, Esquire, appeared on behalf of the Respondent. Mr. Morgan was also present. James R. Martin did not participate in the deliberations.

Having reviewed the complete record, including the Notice of Charges, Answer, complaint history, motions, letters from Virginia L. Yarus, and letters written on behalf of Mr. Morgan, the Professional Conduct Committee makes factual findings and rulings as detailed below:

FACTUAL FINDINGS

The parties entered into a Stipulation of facts and rules violated. On February 20, 2007, the Professional Conduct Committee, upon consideration and review of the Stipulation, determined that the record supports the following findings of fact by clear and convincing evidence:

- 1 Mr. Morgan is an attorney licensed to practice law in New Hampshire. Mr. Morgan was admitted to practice in 1988. At all times material to this proceeding, Mr. Morgan operated

his law office at 160 Broad Street, Claremont, New Hampshire 03743. Mr. Morgan changed his law office name in July 2005, to Ciccotelli & Morgan, PLLC. Effective July 31, 2006, the partnership of Ciccotelli & Morgan, PLLC, was terminated. Mr. Morgan currently practices out of Tarbell Professional Association, P.A.

2. On or about August 19, 2003, Mr. Morgan filed an Appearance on behalf of Virginia Lee Yarus in her divorce case then-pending in Cheshire County Superior Court. The divorce case was entitled, In the Matter of Virginia Lee Yarus and Jeffrey M. Yarus (docket #02-M-015). Prior to Mr. Morgan's Appearance, Ms. Yarus had been represented by Joseph S. Hoppock, Esq., of Keene, New Hampshire.
3. Mr. Yarus was represented by John A. Bell, Esq., of Keene, New Hampshire.
4. At all relevant times, Mr. and Mrs. Yarus had two minor children, Molly and Ashley.
5. Prior to his withdrawal as counsel for Ms. Yarus, Mr. Hoppock had identified Sharon Walker, Ph.D., Ms. Yarus' treating therapist, as an expert witness for purposes of the final divorce hearing. The final divorce hearing was scheduled for November 10, 2003.
6. Dr. Walker would have testified that a highly negative psychological evaluation of Ms. Yarus (which was already in the record) should be given no weight by the judge, as it did not meet basic diagnostic standards.
7. As early as August 28, 2003, Mr. Bell wrote to Dr. Walker and Mr. Morgan in an attempt to arrange for the scheduling of Dr. Walker's discovery deposition.
8. In a follow-up letter to Dr. Walker dated September 8, 2003, on which he copied Mr. Morgan, Mr. Bell wrote:

I am following up on my August 28, 2003 correspondence requesting that you advise me of dates in September or early October during which you will be available to sit for a one-and one-half to two-hour deposition. I also need an opportunity to review Virginia Lee Yarus's file, including all of the treatment notes prior to the deposition, to save actual deposition time. If I have to examine the file at deposition, I expect the event to take at least three hours.

I don't mean to seem unduly persistent, but Attorney Morgan, who represents Mrs. Yarus, has a restrictive schedule, and I'm sure you are quite busy as well. Since you are Mr. Morgan's expert witness, perhaps you can coordinate with him and then suggest some dates to me. I will make every effort to accommodate both of you.

Trial in this matter is scheduled for November 10, 2003, so the deposition will have to take place by early October to allow time for transcription and review, absent a special agreement between counsel.

Again, I ask your cooperation.

9. In a letter to Mr. Morgan dated that same date, on which he copied Dr. Walker, Mr. Bell wrote:

I am enclosing a second copy of my letter to Dr. Sharon Walker, who was designated by predecessor counsel as Petitioner's expert witness. I am hoping to encourage some dialogue between you and Dr. Walker that will result in the scheduling of a timely deposition of Dr. Walker and the avoidance of unnecessary litigation to exclude her testimony because of a lack of discovery. I am mindful of your scheduling limitations, and I am making every effort to accomplish discovery in a timely manner with your situation in mind. If you have decided not to use Dr. Walker, please so inform me in writing so I can stop bothering both of you and stop wasting my time

10. Neither Mr. Morgan nor Dr. Walker responded to Mr. Bell's letters. Nor did Mr. Morgan forward copies of Mr. Bell's letters to Ms. Yarus or otherwise inform her of the pending discovery request.

11. On September 17, 2003, Mr. Bell filed a Motion to Exclude Dr. Walker's testimony (hereinafter referred to as "Motion to Exclude").

12. In the Motion to Exclude, Mr. Bell wrote:

1. The Petitioner, through her previous counsel, identified Sharon Walker, Ph.D. the Petitioner's treating therapist, as an expert witness for purposes of the parties' final divorce hearing, now scheduled for November 10, 2003.
2. Petitioner's previous counsel was discharged in August, 2003, and Robert Morgan, Esquire, entered an appearance on behalf of the Petitioner.
3. Undersigned counsel has been attempting since August 28, 2003, to arrange for the discovery deposition of Petitioner's expert witness. Specifically, undersigned counsel has notified the proffered expert, in writing, as well as opposing counsel, of his desire to set a date for deposition and review the expert's file relating to the Petitioner's treatment. Undersigned counsel sent a follow-up letter on September 8, 2003, to both the proffered expert and Attorney Morgan. No responses of

any kind have been received.

4. This matter is now scheduled for final hearing on November 10, 2003. Given the schedules of the expert and both counsel, it is unlikely the deposition could be held much before October 10, 2003. Given the fact that the proffered expert and opposing counsel have chosen to ignore requests to schedule a set deposition, it is unlikely the deposition can be scheduled at all.
 5. Given that opposing counsel requires a special work schedule a notice of deposition is impractical, and would likely lead to wasted time litigating the issue of whether the notice should be honored.
 6. Opposing counsel has expressed no interest in assisting with the scheduling of the deposition of his expert.
 7. Under all of the circumstances, fundamental fairness requires that the expert's testimony be excluded.
13. Mr. Morgan did not contact Dr. Walker about the scheduling of her deposition until after Mr. Bell filed the Motion to Exclude.
14. By order dated September 30, 2003, the Court (Arnold, J) granted the Motion to Exclude, writing "Granted without objection" in the margin of that pleading.
15. In a pleading dated October 5, 2003, Mr. Morgan requested that the Court permit him to file a late objection to the Motion to Exclude. Entitled "Motion for Late Entry of Objection," Mr. Morgan's pleading stated:
1. When Counsel received opposing counsel's request to arrange the deposition of Sharon Walker, Ph.D. he called him initially unsuccessfully [his answer machine was full for a brief time]. However, Counsel did contact opposing counsel and arranged for her deposition at Mr. Bell's office at 10:00 a.m. Friday 10 October 2003. Counsel agreed together that the record would be submitted to Dr. Walker who would execute it with dispatch to provide Mr. Bell with plenty of time to review it.
 2. The above noted arrangement was made during the ten (10) day period for objection. Unfortunately, the matter of formal objection or withdrawal was not addressed inadvertently. However, that duty was Counsel's responsibility.

3. The underlying issue itself is moot and Counsel assumes that Mr. Bell will assent to this motion or otherwise respond in due course.
16. Mr. Bell responded to that pleading in a "Replication to Petitioner's Late Objection" dated October 14, 2003. In his Replication, Mr. Bell wrote:
- i. Counsel for the parties did agree to schedule the deposition of the Petitioner's proffered expert on October 10, 2003, at 10:00 AM.
 - ii. It is also accurate that counsel for the parties did not discuss withdrawing the Motion To Exclude in the conversation that resulted in the scheduling of the deposition. Contrary to the assertion of Petitioner's counsel, failing to agree to withdraw the motion was not the result of oversight or inadvertence. The fact is, the only way undersigned counsel could get the attention of Petitioner's counsel with respect to the deposition in the first place was to file the motion. Efforts to get Petitioner's counsel to respond prior to that time were ignored. Respondent's counsel had no intention of withdrawing the Motion until the deposition actually took place. The caution proved well-founded.
 - iii. As Petitioner's counsel is well aware, undersigned counsel has written to both the proffered expert and counsel since August 28, 2003 to obtain a copy of Petitioner's treatment file to review in preparation for the deposition. On October 6, 2003, when Petitioner's counsel called to announce the filing of his late objection to the Motion To Exclude, undersigned counsel again reminded him that the file had not been turned over. Petitioner's counsel represented that undersigned counsel would have the treatment file by the end of the day (October 6, 2003). Petitioner's counsel then called back, and said the file would be furnished "Tuesday, Wednesday, or noon Thursday at the latest."
 - iv. On Wednesday, October 8, 2003, undersigned counsel faxed Petitioner's counsel and again informed him that the file had not been received. The fax also informed Petitioner's counsel that unless the file was received by noon on October 9, 2003, undersigned counsel would cancel the deposition with the expert. The file was not received.

- v. For whatever reason, the proffered expert and Petitioner's counsel did not produce the file. The deposition of Petitioner's proffered expert is essentially meaningless unless examining counsel has the opportunity to review the file and prepare the examination. Undersigned counsel was willing to postpone final preparation for the deposition until the eve of the event but was not given the opportunity.
- vi. Petitioner's Counsel has offered no reason or explanation as to why this file was not produced. From the date of his first request to the proffered expert until the date of this Motion, Respondent's counsel has heard nothing from the proffered expert on this issue.

WHEREFORE, the Respondent prays that this Court affirm its Order to exclude Petitioner's expert from testifying at trial. . . .

- 17. In an Order dated October 24, 2003, the Court (Arnold, J.) denied Mr. Morgan's "Motion for Late Entry of Objection." As a result, Ms. Yarus was precluded from using the testimony of Dr. Walker in support of her parenting abilities.
- 18. Mr. Morgan does not dispute that he failed to forward copies of the aforesaid pleadings to Ms. Yarus and otherwise failed to inform Ms. Yarus about the Motion to Exclude and the Court's ruling thereon.
- 19. Mr. Morgan did, however, have many conversations with Ms. Yarus about utilizing Dr. Walker as a potential witness in her case.
- 20. On or about April 30, 2004, the divorce case was settled by stipulation.
- 21. On November 24, 2004, Mr. Morgan withdrew from representing Ms. Yarus in her post-divorce matters.
- 22. Thereafter, Ms. Yarus received her file from Mr. Morgan and reviewed it.
- 23. Mr. Morgan does not dispute Ms. Yarus' contention that she first learned of the Motion to Exclude and the Court's ruling thereon while reviewing her case file after Mr. Morgan's withdrawal. Mr. Morgan does not dispute Ms. Yarus' contention because he has no independent, specific recollection to the contrary.
- 24. In a letter to the Attorney Discipline Office dated November 2, 2005, Ms. Yarus made allegations of professional misconduct against Mr. Morgan.

25. In a letter dated November 9, 2005, James L. DeHart, General Counsel to the New Hampshire Supreme Court Attorney Discipline Office, informed Mr. Morgan that the Attorney Discipline Office had docketed a complaint against him on the basis of Ms. Yarus' allegations. (Mr. DeHart's letter is hereinafter referred to as the "November 9 Letter.") The November 9 Letter included a copy of Ms. Yarus' November 2, 2005, letter of complaint.
26. Having received no response from Mr. Morgan, on December 21, 2005, Mr. DeHart wrote the following letter to Mr. Morgan:

On November 9, 2005, you were mailed a copy of a complaint filed by Virginia Lee Yarus. We have not received your reply, which was due on December 9, 2005. During a telephone call with Thomas V. Trevethick on December 15, 2005, you represented that we would have your answer by December 19, 2005. We have not received it as of this date. Please give this matter your **immediate** attention.

If you fail to immediately file your answer to the complaint this Office will recommend that the matter be referred to Disciplinary Counsel for the issuance of a Notice of Charges for a public hearing on the issue of your failure to cooperate. See Rule 8.1(b) of the Rules of Professional Conduct. In the event a Notice of Charges is issued, the file will become public.

A copy of my letter to you dated November 9, 2005 is enclosed.

(Emphasis in original).

27. On February 9, 2006, the Complaint Screening Committee forwarded Ms. Yarus' complaint to Disciplinary Counsel for prosecution of both the underlying complaint as well as Mr. Morgan's "failure to respond to a disciplinary authority"
28. In a letter to the Complaint Screening Committee dated February 27, 2006, Mr. Morgan wrote the following:

I apologize for not responding to this matter. To say that I have not replied due to lack of time would be inaccurate. I have had very heavy demands on my time. The complaint disappoints me and angers me. I have only glanced at it. I've not read it in detail. It has been, therefore, an easy matter to put into the mañana file given the demands on my time and my emotional reaction. The underlying case was and is a tragic one and drained more than a fair share of my emotional reserves as it was. That shouldn't be so; it still is. Revisiting the matter will not be a pleasure.

My time management capabilities have also been stretched a bit. My partner donated a kidney to his brother in early January. His brother has made an excellent recovery. However, Mr. Ciccotelli has subsequently been hospitalized twice, undergone intestinal surgery, and remains on light duty until next week. Our two (2) largest clients were lost in February and January; one will return in April; one remains in Dartmouth-Hitchcock due to metastasized [sic] breast cancer. My secretary got married in January and left my employ in early February. I have arranged her replacement but that will not be effective until sometime in late March. Difficult periods in the conduct of small firm practice are not unusual and do not justify a failure to reply in a timely manner. I offer the information only to indicate that I have not forgotten the matter, and that I do not intend to respond. It is not offered as a legal excuse. I also wish to offer my apologies to Mr. Trevethick for my broken promise to address this matter over the Christmas weekend.

Thank you, for your courtesy and attention.

29. The aforementioned letter contains a typographical error. In the third line from the end of the above letter, Mr. Morgan intended to write: "I offer the information only to indicate that I have not forgotten the matter, and that I do intend to respond."

In a letter to the Complaint Screening Committee dated February 27, 2006, but actually written on March 26, 2006, Mr. Morgan finally responded to Mr. DeHart's November 9 Letter and Ms. Yarus' November 2 letter of complaint.

RULES VIOLATIONS

The Professional Conduct Committee, upon consideration and review of the Stipulation, determined that the record supports the following rules violations by clear and convincing evidence:

30. Mr Morgan's conduct in this case raises questions under New Hampshire Rules of Professional Conduct **1.4(a)-(c); 8.1(b); and 8.4(a)**.

Rule 1.4(a)-(c): Communication

31. As explained in more detail above, Mr. Morgan did not inform Ms. Yarus that Mr. Bell had been requesting the deposition of Dr. Walker, that he had filed a Motion to Exclude, and that the Court had issued an Order precluding Dr. Walker's testimony. Nor did Mr. Morgan inform Ms. Yarus of the grounds for the Court's ruling.
32. Ms. Yarus first learned of the Motion to Exclude, the pleadings related thereto, and the Court Order after Mr. Morgan withdrew from representation of her and she reviewed her case file.
33. Mr. Morgan's failures to communicate to Ms. Yarus regarding pending requests for a deposition of her expert, the Motion to Exclude, and the Court's decision to grant the Motion to Exclude constitute a failure to keep a client reasonably informed regarding the status of a matter. It also represents a failure to explain the legal and practical aspects of the discovery issues and alternative courses of action, to the extent reasonably necessary to permit the client to make informed decisions.
34. Mr. Morgan's failures in this regard constitute a violation of N.H. R. Prof. Conduct 1.4(a)-(c).

Rule 8.1(b): Failure to Cooperate

35. As described in detail above, in the November 9 Letter, the Attorney Discipline Office informed Mr. Morgan that it had docketed a complaint against him based upon Ms. Yarus' November 2, 2005, Letter of Complaint.
36. The November 9 Letter informed Mr. Morgan that, pursuant to N.H. Sup. Ct. R. 37A(2)(a)(5)(C), Mr. Morgan was required to respond within 30 days.
37. The November 9 Letter was a lawful demand for information from a disciplinary authority.
38. Mr. Morgan's failure to respond to the November 9 Letter until after the Complaint Screening Committee had forwarded to Disciplinary Counsel a "failure to cooperate" charge constitutes a failure to respond under N.H. Sup. Ct. R. 37A(2)(a)(5)(C) and N.H. R. Prof. Conduct 8.1(b).
39. Mr. Morgan's failure to respond to the November 9 Letter constitutes a violation of N.H. R. Prof. Conduct 8.1(b).

Rule 8.4(a): Misconduct

Because of the violations of the above rules, there is necessarily clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(a).

ANALYSIS

An aggravating factor in this case is Mr. Morgan's Disciplinary Record, which includes several complaints to the Attorney Discipline Office, resulting in a reprimand, a public censure, a two year suspension (suspended by the N.H. Supreme Court), and seven (7) warnings. Also to be considered, however, are the mitigating factors of Mr. Morgan's remorse, and the fact that his actions resulted in no fraud, deceit, or personal gain. Given Mr. Morgan's recurring history of Professional Conduct complaints, a straightforward suspension might be an appropriate sanction. Conversely, a stayed suspension with a tightly controlled system of monitoring by a committed mentor, Shane Stewart, could better serve both the public and Mr. Morgan by recognizing the seriousness of the violations, yet providing for remediation.

SANCTION

The parties, in their Stipulation, jointly proposed a sanction which would include a six month suspension and that three months of the six month suspension be stayed for two years under a series of terms and conditions designed to closely monitor Mr. Morgan's practice of law. The Professional Conduct Committee recognized that the violations of rules by Mr. Morgan were part of a pattern of primarily lack of practice management skills, and that suspension was an appropriate sanction in this case. The Committee also recognized that the public would be protected, public confidence in the Bar would be maintained, the integrity of the legal profession would be preserved, and similar future conduct would be prevented by the terms and conditions of the creative sanction stipulated by the parties. The Committee further took note of the level of interest and commitment shown by Mr. Morgan's law firm in agreeing to monitor and supervise Mr. Morgan's practice. Accordingly, the Committee concluded that the appropriate discipline in this matter is a six month suspension with three months to be stayed for two years contingent on compliance with the following stipulated terms and conditions:

(Paragraph numbers below, 4 – 10, coincide with the paragraph references in the parties' stipulation for the purpose of maintaining internal consistency)

4. Mr. Morgan is suspended from the practice of law for six months with three months of the six month suspension stayed for two years from the date of the Professional Conduct Committee's adoption of this Stipulation. Three months of the suspension shall be imposed, effective immediately, upon the date of this Order. At the expiration of the three months of the imposed suspension, Mr. Morgan shall be reinstated automatically, without further action of this Committee. The remaining three months of the six month suspension shall be stayed for two years upon the following terms and conditions:
 - a. Mr. Morgan agrees to comply with the terms of this Stipulation, including the monitoring of his practice of law, as described herein, and comply with the Rules of Professional Conduct. See infra at ¶ 6.
 - b. Mr. Stewart, an associate of Tarbell Professional Association (Mr. Morgan's law firm) and a signatory to this agreement, agrees to monitor Mr. Morgan's compliance with the terms and conditions of this Stipulation and also agrees to report to Disciplinary Counsel regarding Mr. Morgan's compliance as provided in sub-paragraph (l) below.¹
 - c. All of Mr. Morgan's prospective cases will be screened by Mr. Stewart, who will decide whether the firm will undertake representation. Mr. Morgan will not have authority to make that determination. Mr. Morgan, however, may provide representation in cases that have been screened and accepted by Mr. Stewart.

¹ When Mr. Stewart is unavailable because of vacations, trial schedule or other professional or personal reasons, Mr. Stewart shall designate in writing another consenting attorney with Tarbell Professional Association to assume his responsibilities hereunder during his period of unavailability.

- d. Mr. Stewart will meet with Mr. Morgan on a weekly basis to review/discuss each of Mr. Morgan's cases.
- e. Diarizing and docketing for all Mr. Morgan's cases will be performed by a secretary/paralegal with litigation experience. That secretary/paralegal will report to and be supervised by Mr. Stewart.
- f. All incoming client correspondence to Mr. Morgan (whether by mail or fax) will be logged in by the secretary/paralegal responsible for Mr. Morgan's cases by client name with appropriate file references. The log entries will include the name of the client, the date of the correspondence, and a brief description of the contents of the correspondence.
- g. On a weekly basis, Mr. Stewart will review the mail logs.
- h. After reviewing the correspondence each week, Mr. Stewart will determine if any further response to the client or any follow-up correspondence is appropriate. If he determines that a further response is appropriate, he will discuss the matter with Mr. Morgan and will be copied on any response (whether informal correspondence or formal pleading) that Mr. Morgan sends to the individual and/or to the court.
- i. With respect to Mr. Morgan's cases, all orders received from the court, all pleadings filed by opposing counsel, all discovery requests, and all pleadings filed by Mr. Morgan will be copied and provided to Mr. Morgan's clients. Mr. Morgan's secretary will be informed of this policy and Mr. Stewart will confer with the secretary/paralegal on a weekly basis to ensure that this procedure is being followed.
- j. Mr. Morgan will immediately transfer any client funds currently held by him in a lawyers trust account to Tami Keane, the office manager and person who maintains the lawyers trust account at Tarbell Professional Association. Mr. Morgan will, thereafter, close any lawyers trust account he currently maintains and utilize the lawyers trust account of Tarbell Professional Association.

- k. Mr. Morgan will maintain professional liability insurance in the amounts of at least \$100,000 per occurrence and \$300,000 in the aggregate.
 - l. Mr. Stewart will report to the Attorney Discipline Office on a monthly basis whether there are any issues or concerns regarding Mr. Morgan's diligence and/or communication with his clients in accordance with the terms of this stipulation.
5. If Mr. Stewart reports issues or concerns in accordance with paragraph 4(1), Disciplinary Counsel shall review that report and shall determine whether, in her opinion, the reported event is a material violation of the terms of this Stipulation. In making that determination, Disciplinary Counsel may conduct such further investigation, if any, that she deems appropriate. Mr. Morgan shall have the right to provide Disciplinary Counsel with any additional information regarding the reported event. If Disciplinary Counsel concludes that, in her opinion, the reported event is a material violation, she may file a motion with the Professional Conduct Committee requesting that the Committee impose the stayed three month suspension. Mr. Morgan shall have the right to respond in writing to Disciplinary Counsel's motion, to request an evidentiary hearing thereon, and to request oral argument before the Committee. The Committee shall rule upon any request for an evidentiary hearing and for oral argument. Following an evidentiary hearing (if requested), or the denial of a request for such hearing, the Committee shall determine whether the motion requesting imposition of the three month suspension should be granted or denied. Unless waived, oral arguments will be conducted to allow Disciplinary Counsel and Mr. Morgan ten (10) minutes to address the issue of imposition of the stayed suspension. The Committee's decision shall be final. Disciplinary Counsel shall have the burden of proof by a preponderance of the evidence to establish that imposition of the stayed suspension is warranted.
6. In any proceeding under paragraph 5 of this Stipulation to impose the stayed three month suspension based upon information reported by Mr. Stewart, the burden of proof that Disciplinary Counsel must meet is as follows: Disciplinary Counsel must establish by a preponderance of the evidence that Mr. Morgan's reported conduct is

either a material breach of the terms of this stipulation or constitutes a violation of the N.H. Rules of Professional Conduct.

7. If the Attorney Discipline Office receives a complaint against Mr. Morgan that arises out of events that predate adoption of this Stipulation by the Professional Conduct Committee, that complaint will be processed in the ordinary course of business. Any finding of a violation of the Rules of Professional Conduct that may result from that complaint will not be a basis for imposition of the three month suspension in this case.
8. If the Attorney Discipline Office receives a complaint against Mr. Morgan during the period of the two year stay that arises out of events that post date adoption of this Stipulation by the Professional Conduct Committee and are within the period of the two year stay, that complaint will be processed by the Attorney Discipline Office on an expedited basis. Any final adjudication of a violation of the Rules of Professional Conduct that may result from that complaint may provide a basis for a request by Disciplinary Counsel that the Professional Conduct Committee impose the stayed three month suspension in this case. If Disciplinary Counsel makes such a request, Mr. Morgan shall be entitled to an evidentiary hearing and review by the Professional Conduct Committee.
9. At the conclusion of the two year period described in paragraph 4 hereof, the three month suspension shall be permanently stayed provided that there are no complaints or motions pending pursuant to paragraphs 5 or 8 of this Stipulation. If such complaints or motions are filed during the two year period, they can provide a basis for seeking imposition of the stayed three month suspension even if the proceedings on such complaints or motions are concluded after the expiration of the two year period of the stay. Any request for imposition of the stayed suspension that is based upon a complaint under paragraph 8 hereof must be initiated within 30 days of final disposition of that complaint.
10. If the law firm of Tarbell Professional Association should dissolve, or if Mr. Morgan or Mr. Stewart should separate from the firm, Disciplinary Counsel shall be notified immediately. This Stipulation shall be renegotiated within 60 days of such event and

shall thereafter be presented to the Professional Conduct Committee for its review. If the new Stipulation is rejected by the Committee, the Committee shall specify those provisions of the Stipulation that are not acceptable and Mr. Morgan shall be given 30 days to cure.

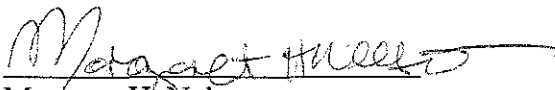
The Committee also accepts Mr. Morgan's stipulated assent to pay costs incurred in the investigation and prosecution of this matter.

CONCLUSION

For all of the above reasons, the Professional Conduct Committee hereby orders that Robert I. Morgan be suspended for six months, and that three months of the suspension to be stayed for two years contingent on compliance with the stipulated agreement above, for violating N.H. R. Prof. Conduct Rule **1.4(a)-(c); 8.1(b); and 8.4(a)**.

This order shall take effect on March 6, 2007.

March 5, 2007


Margaret H. Nelson
Chair

Distribution:

Landy B. McCafferty, Disciplinary Counsel
Shane R. Stewart, Esquire
File

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. LD-2007-0010, In the Matter of Robert I. Morgan, the court on November 6, 2007, issued the following order:

Robert I. Morgan's motion for reinstatement as a member of the New Hampshire bar is granted.

Broderick, C.J., and Dalianis, Duggan, Galway and Hicks, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

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NH Bar Association
Sherri Kluesener, Supreme Court
File