

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2005-0007, In the Matter of Jo-Ellen Wells

On October 14, 2005, the Professional Conduct Committee (PCC) filed a petition requesting that Attorney Jo-Ellen Wells be disbarred. Shortly thereafter, the court issued an order requiring that the petition be served upon Attorney Wells by certified mail. The petition and order were returned to the court unclaimed. The court then issued an order for in person or abode service. The petition and order were left at the abode of Attorney Wells on January 23, 2006. The order providing for service required Attorney Wells to file an answer to the petition within 30 days of service. No answer to the petition has been filed.

Rule 37(16)(c) provides that if a respondent attorney fails to answer a petition filed by the PCC, the allegations of the petition "shall be deemed to be admitted and no further hearing shall be required." In this case, the petition alleged violations of the following Rules of Professional Conduct:

- (1) Rules 1.1. This rule requires a lawyer to provide competent representation to a client. The PCC alleged that Attorney Wells violated this rule by failing to endorse a writ in a civil case and failing to take corrective action when the civil case was dismissed as a result of this defect.
- (2) Rule 1.3(a). This rule requires a lawyer to act with diligence in representing a client. The PCC alleged that Attorney Wells violated this rule by failing to file necessary paperwork to reinstate a civil suit that had been dismissed and failing to file the necessary paperwork in two divorce matters.
- (3) Rule 1.4. This rule requires a lawyer to keep a client reasonably informed regarding the status of a matter, to comply with reasonable requests for information, and to explain the legal and practical aspects of a matter and the alternative courses of action available to permit the client to make informed decisions regarding the representation. The PCC alleged that Attorney Wells failed on numerous occasions to return phone calls to clients, failed to explain a fee agreement, failed to advise clients of the status of their cases, including the fact that one case had been dismissed and that a final hearing had been scheduled in a divorce matter.
- (4) Rule 1.5(b). This rule requires a lawyer to communicate the basis or the rate of the lawyer's fee to the client before or within a reasonable time after commencing the representation. The PCC alleged that Attorney Wells failed to advise a client of the fee structure, and

- particularly whether the client would be charged a flat fee or an hourly rate.
- (5) Rule 1.15(b). This rule requires a lawyer to safeguard the property and funds of clients and third parties and to maintain financial records regarding such property. The PCC alleged that Attorney Wells violated this rule when she failed to return unused retainers to clients despite their requests that the funds be returned.
 - (6) Rule 1.16(d). This rule requires a lawyer to take steps to protect a client's interests upon termination of representation. The PCC alleged that Attorney Wells violated this rule by failing to advise a client of the actions that were necessary with respect to a pending hearing, and failed to file a motion to continue a hearing that was scheduled when she withdrew shortly before the hearing.
 - (7) Rule 8.4(a). This rule makes it professional misconduct to violate the Rules of Professional Conduct.
 - (8) Rule 8.4(c). This rule makes it professional misconduct to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. The PCC alleged that Attorney Wells violated this rule by misrepresenting to a client that she had a scheduling conflict.

In accordance with Rule 37(16)(c), the committee's allegations are deemed admitted. After considering the number of Attorney Wells' violations, the repetitive nature of her misconduct, and her failure to cooperate with the PCC or the court in this proceeding, the court concludes that the appropriate sanction in this case is disbarment.

THEREFORE, Jo-Ellen Wells is disbarred from the practice of law in New Hampshire, effective immediately. She is ordered to notify the attorney discipline authority of any other jurisdictions in which she is licensed to practice law of the issuance of the court's order. She is also hereby assessed all expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter.

A copy of the petition for disbarment and of this order shall be sent to the Office of the Attorney General for such action as it deems appropriate.

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

DATE: March 29, 2006

ATTEST:


Eileen Fox, Clerk

Distribution:

Landy B. McCafferty, Esquire

Jo-Ellen Wells, Esquire

Attorney General

NH Bar Association

Debbie Bills, Supreme Court

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File