

New Hampshire Supreme Court
Professional Conduct Committee

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Bridge, Allyn C. advs. Attorney Discipline Office # 05-064

REPRIMAND WITH CONDITIONS

On January 15, 2008, the Professional Conduct Committee deliberated the above-captioned matter. Members present included Margaret H. Nelson, Chair, Benette Pizzimenti, Vice Chair and Reporter, Toni M. Gray, Vice Chair, James R. Martin, Thomas P. Connair, Gretchen Rule Hamel, Richard H. Darling, James J. Tenn, Jr., Gerald A. Daley and Alan J. Cronheim. David N. Cole participated by telephone. David N. Page was absent. Oral argument was not requested.

The Attorney Discipline Office issued a Notice of Charges in the above-captioned matter on August 1, 2007. Mr. Bridge did not submit an Answer. Accordingly, Rule 37A (III)(b)(3)(A) requires that “the allegations set forth in the Notice of Charges shall be deemed to be admitted.” N.H. Sup. Ct. R. 37A (III)(b)(3)(A). This matter was heard by a Hearing Panel on November 7, 2007. Mr. Bridge appeared and testified on his own behalf.

Having reviewed the record, including Disciplinary Counsel’s exhibits, Proposed Findings of Fact and Rulings of Law, transcript of the November 7, 2007, hearing, Hearing Panel Report and Disciplinary Counsel’s letter dated December 17, 2007, the Professional Conduct Committee makes findings of fact and rulings of law as detailed below.

I. FINDINGS OF FACT

The Professional Conduct Committee accepts the Hearing Panel's findings of fact by clear and convincing evidence as follows:

1. Mr. Bridge is an attorney licensed to practice law in New Hampshire. Mr. Bridge was admitted to practice on October 28, 2002. At all times material to this proceeding, Mr. Bridge operated his law office as Attorney at Law, 15 Chapel Street, Concord, New Hampshire 03301.
2. On November 8, 2004, Mr. Bridge filed an appearance on behalf of Michael Scardina in Mr. Scardina's then-pending divorce in Merrimack County Superior Court (*In the Matter of Denise Scardina & Michael Scardina*, No. 04-M-0921). Shayna M. Wright, Esquire, represented Ms. Scardina in the divorce.
3. In the early part of 2005, while Mr. Bridge was representing Mr. Scardina, Ms. Scardina filed three separate motions for contempt against Mr. Scardina, all alleging failures on his part to make timely child support and alimony payments.
4. This attorney discipline case results from Mr. Bridge's failures to communicate with Mr. Scardina about these contempt motions and orders.
5. On January 11, 2005, a hearing was held on the first such contempt motion. Mr. Scardina was present at that hearing with Mr. Bridge.
6. In an Order dated January 13, 2005, the Court (Fitzgerald, J.) found Mr. Scardina in contempt for failing to pay alimony. The Court's Order did not find Mr. Scardina in contempt for child support because, at that point, Mr. Scardina was only one week in arrears. In the January 13 Order, the Court also ordered the parties to list the marital

residence for sale with a real estate broker and to cooperate fully with the process “to ensure a timely sale so as to avoid foreclosure.”

7. Mr. Bridge did not forward a copy of the Court’s January 13 Order to Mr. Scardina, or otherwise inform Mr. Scardina of its contents.
8. However, because of his attendance at the January 11 hearing, Mr. Scardina was aware that the Court was going to order him to cooperate with the sale of the marital home. Mr. Scardina did not attend the closing because he objected to the sale on grounds that certain necessary preconditions for the sale had not been met.
9. Following the failed closing, Ms. Scardina filed a second motion for contempt and sought the appointment of a commissioner to stand in Mr. Scardina’s stead to sign the necessary paperwork to finalize the sale of the marital home. Mr. Bridge did not forward to Mr. Scardina a copy of this motion, or otherwise communicate its contents to him.
10. In an Order dated March 18, 2005, the Court (Lynn, J.) found Mr. Scardina in contempt “for failing or otherwise refusing to attend the real estate closing” that had been scheduled for the sale of the marital residence. The Court also appointed a Commissioner to act in Mr. Scardina’s stead to finalize the sale.
11. Mr. Bridge did not forward to Mr. Scardina a copy of the Court’s March 18 Order, or otherwise inform Mr. Scardina about such Order.
12. On or about March 18, 2005, the marital home was sold.
13. After learning from an acquaintance that the marital home had been sold, Mr. Scardina decided to terminate the services of Mr. Bridge. Mr. Scardina retained C. Michael Celenza, Esquire.

14. On May 23, 2005, Mr. Celenza filed an appearance in the case on Mr. Scardina's behalf. Mr. Bridge filed his withdrawal on or about the same date.
15. On or about April 26, 2005, prior to the aforesaid termination of Mr. Bridge, Ms. Scardina filed a third motion for contempt for, *inter alia*, Mr. Scardina's alleged failures to pay child support and to pay Ms. Scardina's accrued attorneys fees for the prior contempt litigation.
16. Mr. Bridge did not forward to Mr. Scardina a copy of the April 26 motion, or otherwise inform him of its contents.
17. Mr. Bridge filed no objection to the April 26 motion.
18. In an Order dated May 25, 2005, the Court (Fitzgerald, J.) found Mr. Scardina in contempt for failure to make timely child support payments and granted Ms. Scardina's request for attorney fees. The Court further ordered that Mr. Scardina "shall arrange immediately for a wage assignment of child support and alimony."
19. Upon receiving a copy of the May 25 contempt Order, Mr. Bridge placed the May 25 contempt Order in Mr. Scardina's file and forwarded the file to Mr. Celenza.

II. RULINGS OF LAW

The above facts, having been found by clear and convincing evidence, the Professional Conduct Committee concludes that there is clear and convincing evidence that Mr. Bridge violated N.H. R. Prof. Conduct 1.4(a)-(c) and 8.4(a).

Rule 1.4: Client Communications

20. Mr. Bridge failed to forward two contempt Orders (and the related motions) to his client, Mr. Scardina, who was the subject of each Order. The two Orders were dated January 13,

and March 18, 2005.

21. Mr. Bridge's failure to forward to Mr. Scardina the January 13 contempt Order (and related motion) or otherwise inform him of the contents of these documents, constitutes a failure to keep Mr. Scardina reasonably informed regarding the status of a matter.
22. Mr. Bridge's failure to forward to Mr. Scardina the March 18 contempt Order (and related motion) or otherwise inform him of the contents of these documents, constitutes a failure to keep Mr. Scardina reasonably informed regarding the status of a matter.
23. Mr. Bridge's failure to forward to Mr. Scardina a copy of the January 13 contempt Order (and related motion) or otherwise inform him of the contents of these documents, constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.4(a)-(c).
24. Mr. Bridge's failure to forward to Mr. Scardina a copy of the March 18 contempt Order (and related motion) or otherwise inform him of the contents of these documents, constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.4(a)-(c).

Rule 8.4(a): Misconduct

The Professional Conduct Committee finds by clear and convincing evidence that Mr. Bridge violated N.H. R. Prof. Conduct 8.4(a) by violating Rule 1.4(a)-(c).

III. SANCTION

Having made the aforementioned findings and rulings, the Professional Conduct Committee concludes that the appropriate discipline in this matter is a reprimand with conditions as set forth below. This sanction is in accord with the purposes of attorney discipline as described by the New Hampshire Supreme Court. *See Coffey's Case*, 152 N.H. 503, 513 (2005). This sanction is also in accord with the ABA Center for Professional Responsibility, Standards

for Imposing Lawyer Sanctions (1991) [the “Standards”]. *See, e.g., Shillen’s Case*, 149 N.H. 132, 139 (2003) (noting that, although the Court has never formally adopted these Standards, the Court has “considered them when imposing sanctions”).

The *Standards* establish a four-part analysis to consider in imposing sanctions: (1) the duty violated, (2) the mental state of the lawyer, (3) the potential or actual injury caused by the misconduct, and (4) the existence of aggravating or mitigating factors. *Standards* ¶ 3.0; *See Coffey’s Case*, 152 N.H. at 513. The standards and the first three factors in this analysis are employed to establish a “baseline” sanction against which the aggravating or mitigating factors are applied.

Applying the first three factors, the Committee concludes as follows: (1) that a duty was violated, largely if not entirely unintentionally; (2) that Mr. Bridge’s conduct in not forwarding certain materials to his client was negligent, not intentional, and the result of the lawyer’s inexperience, and (3) that the violation of Rule 1.4 caused minimal, if any actual injury. Any actual injury was minimized by Mr. Bridge’s participation in the contempt hearing on June 13, 2005. From this analysis, and based on the clear and convincing evidence, the baseline sanction was, at its most severe, a Public Censure, within the meaning of Supreme Court Rule 37(2)(g).

The Hearing Panel found no aggravating factors in this case. However, the Professional Conduct Committee remains concerned that providing the client with copies of important orders is a basic and core component of communicating with a client and cannot be excused by inexperience. There are mitigating factors as follows (*Standards* ¶ 9.32):

- (1) Mr. Bridge has no prior disciplinary history. *Standards* ¶ 9.32(a);
- (2) Mr. Bridge did not answer the Committee’s charges, but otherwise made full and free disclosure to the Committee, and spoke with candor and purpose at the hearing on November 7, 2007, as reflected in the Hearing Panel Report. *Standards* ¶ 9.32(e);
- (3) Mr. Bridge was, at the time of the relevant events described above, inexperienced in


- the practice of law and in the management of a law practice, part of which is effectively communicating with clients. *Standards* ¶ 9.32(f).
- (4) Mr. Bridge had no dishonest or selfish motive, and this is not a case of dishonesty or self-dealing, *Standards* ¶ 9.32(b); and
- (5) Mr. Bridge showed remorse for his negligence and failure to effectively and reasonably communicate with his client. *Standards* ¶ 9.32(1).

The application of mitigating factors, including Mr. Bridge's candor with the Hearing Panel, his relative inexperience, and his remorse and unwillingness to lay blame on either the former client, Mr. Scardina, or anyone other than himself suggests that a downward departure from the baseline sanction is appropriate. Therefore, for the foregoing reasons, the Professional Conduct Committee imposes a sanction of Reprimand with conditions (*See* Hearing Panel Report, p. 4).

As a condition of the Reprimand, Mr. Bridge is required to complete six (6) hours of CLE (Continuing Legal Education) in law office management and/or client communication within twelve (12) months of this Order. These hours are in addition to the Minimum CLE requirements of N. H. Supreme Court Rule 53 and may not be used to fulfill the requirements in any reporting year under the Supreme Court Rules.

Mr. Bridge is assessed all costs and expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter. *See* N.H. Sup. Ct. R. 37(19).

March 4, 2008


Margaret H. Nelson, Chair

Distribution:

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