

New Hampshire Supreme Court  
**Professional Conduct Committee**

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*Bridge, Allyn C. advs. Janet Howe # 08-007*

**THREE MONTH SUSPENSION WITH CONDITIONS**

The Professional Conduct Committee (the “Committee”) deliberated this matter on April 21, 2009. The following Committee members were present: Margaret H. Nelson, Chair, Benette Pizzimenti, Vice Chair, Toni M. Gray, Vice Chair, Susan Chollet, David N. Cole, Alan J. Cronheim, Gerald A. Daly, Richard H. Darling, Gretchen Rule Hamel, and James R. Martin. Thomas Connair was absent.

The Committee had previously reviewed the record in this matter, including, but not limited to: a Hearing Panel Report of February 3, 2009; the Attorney Discipline Office’s (“ADO”) Proposed Findings of Fact and Rulings of Law and Request for Costs dated January 16, 2009 (attached to the Hearing Panel Report); and the ADO’s Memorandum on Sanction dated March 4, 2008. The Committee now makes the following findings of fact and rulings of law.

**I. FINDINGS OF FACT**

The ADO issued a Notice of Charges in this matter on July 24, 2008. Mr. Bridge did not file an Answer. Based on the failure to file an Answer the allegations of the Notice of Charges are deemed admitted. N.H. Sup. Ct. R. 37A(III)(b)(3)(A).

The now admitted facts from the Notice of Charges establish the following, by clear and convincing evidence:

Mr. Bridge is an attorney licensed to practice law in New Hampshire<sup>1</sup>.

On or about October 25, 2006, Janet Howe (the Complainant) retained Mr. Bridge to file a breach of contract action against her son, Edward J. Howe, who had defaulted on a loan from Ms. Howe. There was some urgency to Ms. Howe's lawsuit, as she had loaned her son \$10,500.00 by using her credit card to charge an item for Mr. Howe. Mr. Howe had agreed to pay Ms. Howe's credit card bill but then did not, and Ms. Howe could not afford to make the payments.

On or about February 21, 2007, Mr. Bridge filed a writ of summons against Mr. Howe in Franklin District Court. On August 16, 2007, the Court dismissed the case, ruling that it was primarily an equity action. On or about September 5, 2007, Ms. Howe met with Mr. Bridge at his law office and told him she wanted Mr. Bridge to refile the lawsuit in Superior Court.

On January 23, 2008, having had no communications from Mr. Bridge regarding the status of her lawsuit (which, unknown to Ms. Howe, had not been filed) despite numerous requests, Ms. Howe complained to the ADO. Mr. Bridge did not respond to subsequent communications from the ADO or contest the allegations against him, but Disciplinary Counsel has now informed the Committee that Mr. Bridge has begun communicating with Disciplinary Counsel, has been informed of Disciplinary Counsel's recommended sanction, and does not disagree with Disciplinary Counsel's recommended sanction of a three month suspension with conditions.

## **II. RULINGS OF LAW**

Based on the above deemed admitted facts, the Committee finds by clear and convincing evidence that Mr. Bridge violated the following Rules of Professional Conduct: Rule 1.3: Diligence; Rule 1.4(a)-(c): Client Communications; Rule 3.2: Expediting Litigation; Rule 8.1(b): Failure to Cooperate; and Rule 8.4(a): General Rule.

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<sup>1</sup> He was suspended from the practice on January 16, 2009, for non-payment of Bar dues and on February 19, 2009, for failing to file trust certificate.

**Rule 1.3 Diligence**

Mr. Bridge had a duty to act with reasonable promptness and diligence representing Ms. Howe. He failed to do so when he failed to refile Ms. Howe's lawsuit in Superior Court after the District Court dismissal. This caused avoidable harm both to Ms. Howe's legal interests and to her attorney-client relationship with Mr. Bridge. Mr. Bridge's failure constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.3.

**Rules 1.4(a)-(c): Client Communications**

Mr. Bridge had a duty to keep Ms. Howe reasonably informed about the status of her lawsuit and to promptly comply with her reasonable requests for information. Mr. Bridge's failures to respond constitute violations of his fundamental obligation to communicate with Ms. Howe and constitute clear and convincing evidence of violations of N.H. R. Prof. Conduct 1.4(a)-(c).

**Rule 3.2: Expediting Litigation**

Mr. Bridge had a duty to expedite the filing of Ms. Howe's lawsuit in Superior Court. Ms. Howe had an interest in pursuing her lawsuit against her son so that her credit card bills could be paid. By failing to file Ms. Howe's lawsuit in Superior Court, Mr. Bridge violated his obligation to expedite litigation consistent with his client's interests. Mr. Bridge's failure constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 3.2.

**Rule 8.1(b): Failure to Cooperate**

Mr. Bridge has a duty to respond to a lawful demand for information from a disciplinary authority. Mr. Bridge's failure constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.1(b).

**Rule 8.4(a): General Rule**

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

### III. ANALYSIS

Based on the above deemed admitted facts and record, the appropriate sanction in this matter is a three month suspension.

The purpose of the Court's disciplinary power "is to protect the public, maintain public confidence in the bar, preserve the integrity of the legal profession, and prevent similar conduct in the future." *E.g., Coffey's Case*, 152 N.H. 503, 513 (2005)(internal quotation marks omitted). In determining what constitutes an appropriate sanction for a particular rules violation, an analysis that "must take into account the severity of the misconduct," *id.*, the Committee looks to the American Bar Association's *Standards for Imposing Lawyer Sanctions* (1992)(the "*Standards*") for guidance, *id.* at 513.

The *Standards* set forth four elements the Committee must consider when imposing sanctions: "(a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors." *Id.* (citing Standard 3.0). Consideration of the first three elements creates the framework for characterizing the misconduct and determining a baseline sanction. *Wolterbeek's Case*, 152 N.H. 710-714 (2005) ("in applying these factors, the first step is to categorize the respondent's misconduct and identify the appropriate sanction."). After an appropriate baseline sanction is identified, this Committee looks to the fourth and final step in the analysis: the application of any aggravating or mitigating factors. *Id.*

The Committee found persuasive and adopts the analysis set forth in Disciplinary Counsel's Memorandum on Sanction. That analysis follows:

Under the first prong of the analysis, Mr. Bridge violated obligations both to his client as well as to the profession. Mr. Bridge violated his obligations to his client to represent her in a diligent manner, to communicate with her properly and in a timely manner about the status of her case, and to move her case toward litigation in an expeditious manner. Additionally, Mr. Bridge violated his duty to cooperate with the Attorney Discipline Office, by failing to respond to the grievance.

The most serious rule violations committed by Mr. Bridge involve his failure to pursue Ms. Howe's lawsuit and then his subsequent failure to communicate with her about her case. While his failure to cooperate with the Attorney Discipline Office is also serious, Mr. Bridge's recent contact with Disciplinary Counsel about this case, as discussed below, reduces the severity of his original failure to cooperate.

The second prong of the three-part test requires analysis of Mr. Bridge's mental state. There is no dispute that Mr. Bridge acted at least knowingly with respect to each of his violations.

The third prong requires analysis of the injury to Mr. Bridge's client and/or the legal profession. Here, the injury to Ms. Howe was of a financial nature. Ms. Howe had very little money with which to retain a lawyer. Indeed, Ms. Howe's lawsuit against her son (that Mr. Bridge failed to pursue) was motivated by Ms. Howe's inability to pay a credit card obligation.

Ms. Howe relied to her detriment on Mr. Bridge's commitment to pursue her claim in Superior Court. When Mr. Bridge apparently determined he was not going to pursue Ms. Howe's lawsuit in Superior Court, he certainly should have, at a minimum, taken steps to reduce the harm to Ms. Howe. Mr. Bridge should have advised Ms. Howe that he had not and would not take any action on her behalf, so that she might seek other counsel. Mr. Bridge also should have returned her Superior Court filing fee (\$48.50). Further, in light of Mr. Bridge's failed efforts, Ms. Howe received little or no value in exchange for the \$600.00 retainer fee she paid Mr. Bridge at the outset of her case, and Ms. Howe's prospects for the recovery of her claim were prejudiced.

In determining a baseline sanction, the *Standards* provide additional guidance. The applicable standard for misconduct involving lack of diligence and poor communication with clients is *Standard* 4.4, entitled "Lack of Diligence." *Standard* 4.4 provides:

- 4.41 Disbarment is generally appropriate when:
- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
  - (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
  - (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
- 4.42 Suspension is generally appropriate when:
- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or
  - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

- 4.43 Reprimand<sup>2</sup> is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.
- 4.44 Admonition<sup>3</sup> is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

Mr. Bridge knowingly failed to perform services for Ms. Howe and caused her to suffer harm as a result. Thus, section 4.42(a) suggests that a suspension is the appropriate baseline sanction in this case. Using New Hampshire case law as a backdrop, however, a suspension for lack of diligence in the particular context of this case may not be warranted. The Court has issued public censures for misconduct far more serious than that committed by Mr. Bridge. *See generally O'Meara's Case*, 150 N.H. 157 (2003) (holding that public censure is appropriate sanction for deceit in particular context of case); *Welt's Case*, 136 N.H. 588 (1993) (similar).

In light of the-three prong test, the applicable *Standard*, and the purposes of attorney discipline, Mr. Bridge's misconduct warrants a baseline sanction that would fall somewhere between a public censure and a suspension. The baseline sanction must now be considered in light of the aggravating and mitigating factors.

In this case, the following aggravating factors are present. First, Mr. Bridge has a prior disciplinary record. By Order of this Committee, dated September 12, 2007, Mr. Bridge received a Reprimand With Conditions for misconduct in a case entitled, *Bridge, Allyn C. advs. Attorney Discipline Office*, PCC #05-064. By Order dated August 20, 2008, the Committee issued Mr. Bridge a Warning in a case entitled *Bridge, Allyn C. advs. Angela St. John*, PCC #07-053. Both of these cases involve conduct on the part of Mr. Bridge that is similar to that at issue in this case. (A copy of Mr. Bridge's disciplinary history is attached as Exhibit 1). While the issuance of the Reprimand and Warning in those cases post-dated the underlying misconduct in this case, it appears that Mr. Bridge's misconduct is repetitive and raises serious public protection concerns. A second aggravating factor is that Mr. Bridge committed multiple violations: he neglected his client and his client's case, and he also ignored the Attorney Discipline Office early on in the process. *See Standards* § 9.22(d). A third aggravating factor is that Mr. Bridge has not made any effort to provide restitution to Ms. Howe. *See Standards* § 9.22(j). At the very least, Mr. Bridge should have returned \$48.50, the amount Ms. Howe gave him for the Superior Court filing fee. The aggravators in this case are serious and warrant an increase in the baseline sanction.

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2 Section 4.43 uses the term "Reprimand." The most analogous sanction in New Hampshire is a Public Censure.

3 Section 4.44 uses the term "Admonition." The most analogous sanction in New Hampshire is a Reprimand.

Having listed the aggravators, it is now necessary to weigh them against the mitigating factors. There are many compelling mitigators in this case. First, by way of background, Mr. Bridge met in-person with Disciplinary Counsel on September 29, 2008, and expressed genuine remorse both for his behavior toward Ms. Howe, as well as his early lack of cooperation with the Attorney Discipline Office. Mr. Bridge candidly explained that he sought therapeutic treatment in August of 2007, and has been diagnosed with depression. He has decided, in consultation with his therapist, that the practice of law (particularly when it involves litigation) exacerbates his depression and renders him unable to function properly as a professional. Mr. Bridge has, as a result, recently stopped practicing law. He is having intense financial difficulties, but is trying "to stay afloat" with "odd jobs" and social welfare programs. He is contemplating either going on "inactive status" or resigning from the New Hampshire Bar; he has not yet decided what he is going to do. Disciplinary Counsel explained to him the options he may have available through the Lawyer's Assistance Program, but Mr. Bridge has a strong desire for his therapy to be separate and distinct from the legal profession. Mr. Bridge concedes that his misconduct caused Ms. Howe harm, and he admits that he neglected his obligations to cooperate with the Attorney Discipline Office early in the disciplinary process. He attributes his neglect in both instances to his depression. To Mr. Bridge's credit, he is open about his shortcomings and is genuinely attempting to address them outside the practice of law. While he is aware of the financial harm that he caused to Ms. Howe, he has been unable to meet his own basic financial obligations and has needed the assistance of food stamps in recent times.

The mitigating factors in this case are very compelling. When weighed against the aggravating factors, a short, rather than lengthy, suspension is appropriate.

Disciplinary Counsel's Memorandum on Sanction at 3-7.

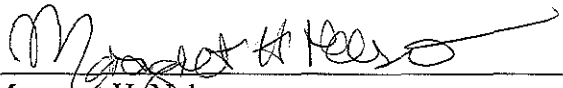
#### **IV. CONCLUSION**

Based on the above analysis and the deemed admitted facts, the Committee finds that a three month suspension is appropriate in this matter, with the following conditions:

1. Prior to being reinstated Mr. Bridge shall provide Disciplinary Counsel with proof that he has complied or is complying with his mental health practitioner's treatment recommendations and, in the opinion of his mental health treatment provider, that he is of sound mental health such that he can resume his law practice.

2. Mr. Bridge shall comply with all Supreme Court Rules governing reinstatement after suspension.
3. If Mr. Bridge requests and is granted reinstatement, for a period of two years following the reinstatement he shall be obligated to provide quarterly reports from his mental health provider to the ADO on the last day of March, June, September, and December. These reports shall specifically discuss the extent to which Mr. Bridge is complying with the mental health provider's recommendations and the extent to which Mr. Bridge is of sound mental health and capable of practicing law.
4. The ADO shall take such steps as it deems necessary to commence further proceedings consistent with any adverse report rendered by Mr. Bridge's mental health provider during the two year period following his reinstatement.
5. Mr. Bridge is assessed all expenses and costs incurred by the Committee for the investigation and prosecution of this matter.

May 29, 2009

  
Margaret H. Nelson  
Chair

cc: Landya B. McCafferty, Disciplinary Counsel  
Allyn C. Bridge  
Janet Howe  
File