

New Hampshire Supreme Court  
Professional Conduct Committee

**Carol L. Eldridge advs. Jim Collins**

**01-040**

**REPRIMAND**

In this matter Landya B. McCafferty, Disciplinary Counsel, waived oral argument on behalf of the Attorney Discipline Office. The respondent did not appear. Accordingly, the Professional Conduct Committee (the "Committee") proceeded without oral argument. Toni Gray, a lay member of the Committee, recused herself from the matter, did not participate in the discussion, and did not vote.

Having reviewed the record, including the Notice of Charges of February 2, 2005, a Hearing Panel Report and a Minority Report, both of May 31, 2005, and Attorney McCafferty's response to the latter of June 8, 2005, the Committee makes the following factual findings and rulings of law.

**I. FACTUAL FINDINGS**

1. On February 2, 2005, the Attorney Discipline Office issued a Notice of Charges in this matter pursuant to New Hampshire Supreme Court Rule 37A(III)(b)(2).
2. Carol Eldridge signed the certified mail receipt for the Notice of Charges on February 5, 2005.
3. No Answer was filed to the Notice of Charges.
4. Neither Carol Eldridge nor any representative on her behalf appeared for the final hearing.
5. By Order dated March 20, 1998, the New Hampshire Supreme Court suspended Ms. Eldridge from the practice of law.
6. The March 20, 1998, suspension was in addition to a suspension order issued by the New Hampshire Supreme Court on August 12, 1997, for nonpayment of dues.
7. On September 14, 2000, Ms. Eldridge became employed as Legal Coordinator for the State of New Hampshire Banking Department, Consumer Credit Division.

8. Ms. Eldridge's duties included performing administrative and legal work in prosecuting or conducting adjudicative hearings concerning banking department licensees and supervising subordinate legal personnel.

9. Ms. Eldridge was also responsible for reviewing federal statutes, case law, rulings, policy statements, official staff commentary, opinions and similar decisions to advise examination, investigative and/or administrative staff on federal consumer protection and banking laws and regulations enforceable by the department. Other responsibilities included conducting hearings and prehearing conferences, ruling on motions and the relevance of testimony and exhibits, and rendering decisions affecting department licensees.

10. Ms. Eldridge used the abbreviation "Esq." after her name while employed as Legal Coordinator for the Banking Department.

## II. RULINGS OF LAW

Having found the above facts by clear and convincing evidence, the Committee makes the following Rulings of Law:

1. New Hampshire Supreme Court Rule 37A(III)(b)(3)(A) provides that "the respondent shall answer the notice of charges by serving and filing an answer with disciplinary counsel within thirty (30) days after service of the notice of charges. Should the respondent fail to file an answer, the allegations set forth in the notice of charges shall be deemed to be admitted."

2. New Hampshire prohibits the unauthorized practice of law. RSA 311:7-a.

3. In New Hampshire there is a strong public policy against the unauthorized practice of law. *State v. Settle*, 124 N.H. 832, 835 (1984).

4. "Whether or not one is engaged in the practice of law depends upon the character of acts performed and not the place where he or she performs them." *Campaign for Ratepayers' Rights*, 137 N.H. 707, 715 (1994).

5. New Hampshire Rule of Professional Conduct 5.5 provides in pertinent part: "A lawyer shall not "practice law in a United States jurisdiction where doing so violates the regulation of the legal profession in that United States jurisdiction."

6. New Hampshire Rule of Professional Conduct 8.4 provides in pertinent part: "It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct[.]"

### III. SANCTION

The New Hampshire Supreme Court has often relied upon the ABA Standards for Imposing Lawyer Sanctions (1991) [the "Standards"] for guidance in determining the appropriate sanction in a disciplinary case. *Kersey's Case*, 150 N.H. 585, 587-88 (2004). The Standards set forth the following factors to be examined in selecting an appropriate sanction: the duty violated, the lawyer's mental state, the actual or potential injury caused by the lawyer's misconduct and the existence of aggravating or mitigating factors. *Id.*

The above factual findings support a finding of professional misconduct. Accordingly, the Committee imposes a reprimand on Carol Eldridge for violation by clear and convincing evidence of New Hampshire Rules of Professional Conduct 5.5(a) and 8.4(a). The fact that Ms. Eldridge's violation was unintentional, that no injury was caused by the misconduct, that she was under suspension by Order dated March 20, 1998, due to a disability, and that Ms. Eldridge no longer works at the Banking Department and has no present intention of seeking reinstatement to the Bar in the future warrants only a Reprimand.

### IV. CONCLUSION

In accordance with New Hampshire Supreme Court Rule 37(A) (III)(d)(1) the Hearing Panel recommends and the Committee agrees that it is appropriate for the Committee to issue this Reprimand of Carol Eldridge for violating New Hampshire Rules of Professional Conduct 5.5(a) and 8.4(a).

Date: 7/29/05

By: Margaret H. Nelson  
Margaret H. Nelson, Esq.  
Chair