

New Hampshire Supreme Court  
**Professional Conduct Committee**

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**PUBLIC CENSURE**

On January 29, 2009, the Professional Conduct Committee (“Committee”) heard Oral Argument and deliberated the above captioned matter. James L. Kruse, Assistant Disciplinary Counsel represented the Attorney Discipline Office (“ADO”), and Russell F. Hilliard, Esquire, represented the Respondent, Stephen T. Jeffco, Esquire. Mr. Jeffco and Bruce P. Brouillard, the Complainant, were in attendance at Oral Argument. Committee members present included Margaret Nelson, Esquire, Chair, Benette Pizzimenti, Esquire, Vice Chair, David N. Cole, Esquire, Thomas P. Connair, Esquire, Gerald A. Daley, Richard H. Darling, James R. Martin, Esquire, and Marilyn Billings McNamara, Esquire. Susan R. Chollet and Gretchen Rule Hamel, Esquire, were absent. Toni M. Gray, Vice Chair, and Alan J. Cronheim, Esquire, were recused.

The Committee considered the Record, including: Oral Argument held on January 29, 2009, the Stipulation of Facts dated January 14, 2009, and the January 16, 2009, letter from Mr. Brouillard.

**I. FINDINGS OF FACT**

The Respondent and the ADO have stipulated, and the Committee accepts the Stipulation, (“Stipulation”) as to the facts of this matter. Accordingly, the facts described below

as set forth in the Stipulation are established by clear and convincing evidence:

The Complainant, Bruce Brouillard, of Nashua, N.H., filed a complaint in this matter on August 23, 2005. At the time of filing, Mr. Brouillard was an inmate at the Federal Prison Camp-Devens in Ayer, MA. Mr. Brouillard's complaint relates to Mr. Jeffco's performance as defense counsel in a criminal matter and related forfeiture claim pursued by the United States in the United States District Court for the District of New Hampshire.

In early June 2001, prior to retaining Mr. Jeffco, Mr. Brouillard was the subject of a search warrant, during which Mr. Brouillard admitted to a law enforcement officer that he had been purchasing cocaine for several years and that some of the drugs were purchased for re-sale. Through telephone surveillance, Mr. Brouillard had also been overheard arranging drug transactions with others under investigation.

Mr. Brouillard retained Mr. Jeffco on or about June, 11, 2001, to represent him in connection with the criminal matter. Following payment of an initial consulting fee, Mr. Jeffco advised Mr. Brouillard that he would charge on an hourly basis and that fees would be a minimum of \$10,000. In the event of an indictment, Mr. Jeffco would require a minimum of \$25,000. In the event of trial, Mr. Jeffco required a minimum of \$50,000.

On July 26, 2001, Mr. Jeffco and Mr. Brouillard met with Mr. Irish and executed an agreement under which the government would "consider" Mr. Brouillard's proffer of information. There was no reference in the proffer agreement to the government's position on sentencing.

Following execution of the proffer agreement, Mr. Brouillard was interviewed, or debriefed, by the government. The debriefing was a failure because Mr. Brouillard was not fully candid or truthful about his involvement in the subject criminal activity or about the involvement of others.

After the referenced meeting, Mr. Jeffco advised Mr. Brouillard that he did not think he could continue to represent Mr. Brouillard because of Mr. Brouillard's failure to tell the truth. Mr. Brouillard subsequently apologized for not doing "a better job" of answering the government's questions. Mr. Brouillard indicated he wanted to try the debriefing again, although he questioned "what might be in it for [him]." Further, Mr. Brouillard did not want to testify or provide information about other people involved in the drug activity, thus raising a question at the time whether a further debriefing with the government could be successful.

Mr. Jeffco agreed to remain in the case, but made clear to Mr. Brouillard that he would have to commit to participating "one hundred percent" under any proffer agreement with the government. At Mr. Jeffco's request, Mr. Irish scheduled

another debriefing meeting on September 14, 2001. At that meeting, the government determined, once again, that Mr. Brouillard was not being fully candid and truthful. No further debriefing meetings were scheduled.

On April 10, 2002, Mr. Brouillard was indicted by a federal grand jury. Count I of the indictment (and the only count applicable to Mr. Brouillard) alleged conspiracy to possess and distribute more than 500 grams of cocaine. Alleged co-conspirators were also indicted.

On September 13, 2002, Mr. Brouillard wrote a memorandum to Mr. Jeffco complaining that he had not been able to communicate with the Mr. Jeffco by telephone. He asked Mr. Jeffco about the status of discovery and about the forfeiture matter.

On or about November 27, 2002, Mr. Brouillard was hospitalized for the second time in recent months for surgery related to cancer. He was expected for several weeks thereafter to require bed rest while undergoing radiation and chemotherapy through the end of March 2003.

The government supplied Mr. Jeffco with a large volume of discovery material which Mr. Jeffco forwarded to Mr. Brouillard for his review. On January 30, 2003, Mr. Irish also forwarded to Mr. Jeffco the government's proposed plea agreement covering the criminal and forfeiture matters. Mr. Jeffco and Mr. Brouillard reviewed the discovery material and the plea proposal at a meeting on or about February 10, 2003.

Following their aforesaid February 2003, meeting, Mr. Brouillard wrote a memorandum to Mr. Jeffco dated February 21, 2003, summarizing his reaction to the government's proposal.

In his memorandum, Mr. Brouillard complained that Mr. Jeffco had delayed sending Mr. Brouillard a copy of the proposal for his review. Mr. Brouillard challenged the government's evidence and rejected various provisions in the proposed plea agreement, including those regarding forfeiture of his Danbury Road property. Mr. Brouillard also indicated that it would be impossible for him to recall every detail of his drug history; he was concerned about how the government would determine whether he had provided "substantial assistance" and whether it would file a motion relating to sentencing. Mr. Brouillard asked whether his medical condition could be used in negotiating a plea bargain.

In his memorandum to Mr. Jeffco, Mr. Brouillard also said he thought the government's proposal was one-sided and "my counter to them should be: Drop all charges and I won't sue the US Government for defamation of character."

On or about May 6, 2003, Mr. Brouillard wrote another memorandum to Mr. Jeffco, complaining that he had had difficulty communicating with Mr. Jeffco about his case and about the status of negotiations with the government. Mr. Brouillard claimed that Mr. Jeffco had failed to respond to many telephone calls. Mr. Jeffco recalls frequently communicating with Mr. Brouillard during the course of the representation.

Mr. Jeffco wrote to Mr. Irish on May 21, 2003. Mr. Jeffco addressed the relative involvement of the other co-defendants, placing Mr. Brouillard at the next to lowest level. With Mr. Brouillard's consent, Mr. Jeffco also proposed a plea agreement involving either a) a low level conspiracy to sell, with permission to seek sentencing relief under Section 5C1.2 ("safety valve") of the federal Sentencing Guidelines and under Section 5H1.4 (medical condition), or b) one count of a telephone drug violation under 21 U.S.C. Sect. 843(b). Mr. Jeffco also advised Mr. Irish of his client's serious medical condition.

Sentencing relief sought by Mr. Jeffco under the aforementioned safety valve provision of the Sentencing Guidelines was directed at avoiding sentencing at the statutory minimum level applicable in Mr. Brouillard's case.

Mr. Jeffco appeared on Mr. Brouillard's behalf at a pretrial hearing in the criminal matter on May 22, 2003. Mr. Jeffco had additional discussions with Mr. Irish and Assistant U.S. Attorney Clyde Garrison at that time. Mr. Jeffco understood that the government would agree to a plea agreement including a provision "that stipulated that the mandatory minimum [sentence] would not be applicable."

On May 29, 2003, and following review of the government's proposal with Mr. Jeffco, Mr. Brouillard executed a plea agreement with the government. Proposed language in the plea agreement regarding forfeiture of assets was deleted by agreement. There was no agreement at that time on the forfeiture issue. The referenced plea agreement provided that Mr. Brouillard would enter a plea of guilty to Count I of the indictment for conspiring to possess with intent to distribute 500 grams or more of cocaine, an offense carrying possible penalties of a minimum five years in prison, a maximum fine of \$2,000,000 [sic], a mandatory special assessment of \$100, and a minimum four years of supervised release.

Regarding sentencing, the plea agreement provided that the Sentencing Reform Act of 1984 and the federal Sentencing Guidelines would apply in this case. The government agreed that it would not oppose reduction in the defendant's "Adjusted Offense Level" pursuant to Sentencing Guideline Section 3E1.1, based upon the defendant's "affirmative acceptance of personal responsibility for the offense." However, the government could oppose any sentencing adjustment under Section 3E1.1 if Mr. Brouillard failed to satisfy various criteria required under that Section and specifically outlined in the text of the plea agreement.

In the plea agreement, the government agreed that it would not oppose the application of the safety valve provision of the Sentencing Guidelines (at Section 5C1.2) if the Probation Department “determines the defendant is eligible, and he meets the criteria set forth in the Guideline Section.” Such criteria were not set forth in the text of the plea agreement. However, the fifth criterion under Section 5C1.2 provides that the defendant shall have “truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan....”

Mr. Jeffco was aware of the government’s position that Mr. Brouillard had not been cooperative. Mr. Jeffco had no discussion with the government about any further opportunity for Mr. Brouillard to satisfy the safety valve provision criteria, but hoped that the issue would be left open. The government also agreed that if it determined that Mr. Brouillard had provided “substantial assistance” in the investigation or prosecution of another person who has committed an offense, the government, in its sole discretion, could decide to file a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, permitting the Court to depart downward from the statutory minimum sentence. Mr. Jeffco and Mr. Brouillard did not discuss whether Mr. Brouillard would meet again with the government in an effort to satisfy the safety valve provision criteria.

Mr. Jeffco did not discuss with Mr. Brouillard the possibility that the government would oppose application of the safety valve provision and what options Mr. Brouillard might have in that event. Mr. Jeffco claims he did not perceive that there was an issue to discuss in this regard prior to the sentencing hearing. Mr. Jeffco conceded, however, that a hearing panel was likely to find clear and convincing evidence that he did not adequately communicate with his client in this regard.

On May 29, 2003, Mr. Brouillard appeared before United States District Court Judge Joseph DiClerico and entered a plea of guilty to the conspiracy charge at Count I of the indictment.

Prior to accepting Mr. Brouillard’s plea at the May 29, 2003, hearing, the Court elicited an offer of proof from the government. Mr. Garrigan summarized the evidence obtained against Mr. Brouillard. The Court also had Mr. Brouillard confirm his understanding of the plea agreement, including provisions addressing the various sentencing options available under the Sentencing Guidelines. The Court cautioned Mr. Brouillard as follows: “You could be exposing yourself to imposition of a statutorily authorized sentence. It could include up to four years in prison, a mandatory minimum term of imprisonment of five years....” The Court also had Mr. Brouillard confirm that he had had ample opportunity to

consult with Mr. Jeffco regarding the plea agreement and that he was satisfied with Mr. Jeffco's representation.

Prior to close of the hearing, counsel disclosed their further agreement to allow Mr. Jeffco to offer medical evidence at the time of sentencing. Mr. Jeffco indicated he intended to make the submission under Sect. 5H1.4 of the Sentencing Guidelines. Mr. Garrigan agreed to the submission, but took no position on any motions relating to "downward departure" in sentencing, i.e., sentencing below the statutory minimum. At the conclusion of the May 29 hearing, and in view of Mr. Brouillard's medical condition, the Court released Mr. Brouillard on bail, pending sentencing.

On July 21, 2003, Mr. Brouillard sent Mr. Jeffco his draft personal statement to the sentencing judge. Mr. Brouillard proposed to summarize his personal history of substance abuse, to admit he was wrong and that he was prepared to be sentenced for it, and that he suffered a medical condition possibly linked to his drug abuse. With reference to the three other co-defendants who had already entered pleas, Mr. Brouillard noted that they were more involved than he and that Mr. Brouillard should not be treated any more harshly than the others. However, Mr. Brouillard was prepared to agree with Mr. Irish that "we all knew each other pretty good."

Mr. Linehan's Report included a summary of Mr. Brouillard's physical condition, including his cancer and treatment thereof. Mr. Linehan anticipated receiving numerous medical reports through Mr. Jeffco; he indicated that the reports might "form the basis for a motion for downward departure in the sentencing...."

On August 18, 2003, Mr. Jeffco wrote to Mr. Brouillard, enclosing a copy of Mr. Linehan's Report. Mr. Jeffco viewed the Report as a "first draft," subject to review and consideration of the package of medical records submitted to Mr. Linehan two days later on August 20, 2003. On August 26, 2003, Mr. Jeffco also sent Mr. Linehan additional financial information from Mr. Brouillard.

Mr. Brouillard reacted to the Presentence Investigation Report in his August 22, 2003, letter to Mr. Jeffco. Mr. Brouillard complained that Mr. Jeffco had delayed sending him the Report and that he had not been afforded an opportunity to discuss filing a timely response. Mr. Brouillard contested some of the evidence summarized relating to co-defendants and complained of disparate treatment; he also charged that when he "talked" originally, he was "coerced" by the police into believing that he would be treated more fairly in exchange for his cooperation and that now the information he supplied was being used against him because he "didn't talk at the 'right time.'"

Responding to the government's objection, Mr. Linehan issued an Addendum to the Presentence Investigation Report on August 26, 2003, deleting any reference to "safety valve" consideration for Mr. Brouillard, thereby increasing the total offense level to 25. Mr. Linehan deferred to the U.S. Attorney's assessment that Mr. Brouillard had not been truthful regarding his role and the role of others in the drug conspiracy case, and that, accordingly, Mr. Brouillard had not satisfied all of the criteria required under Sect. 5C1.2 of the Sentencing Guidelines.

Mr. Linehan concluded that the Addendum had "resolved" the government's objection to application of the safety valve, "although it may be a point of argument by defense counsel at the sentencing hearing in this case." Mr. Jeffco did not respond to Mr. Irish's objection to the Report; nor did he, on behalf of Mr. Brouillard, file an objection to the Report or to the Addendum. Mr. Jeffco claims he did not perceive any cause for responding or objecting to the government's position. Mr. Jeffco told Mr. Brouillard that he would address the issue of the government's position on the safety valve and the change in the Presentence Investigation Report at the time of sentencing.

In connection with sentencing, Mr. Jeffco focused his attention on obtaining medical records to offer in support of sentencing relief. Mr. Brouillard recalls that Mr. Jeffco indicated he thought there was a possibility that Mr. Brouillard would not have to serve any time in prison. Mr. Jeffco denies so indicating. Sentencing was ultimately scheduled for December 19, 2003.

On November 17, 2003, the parties agreed to the terms of a proposed Preliminary Order of Forfeiture. Mr. Brouillard agreed to a \$100,000 personal judgment. He also agreed that the government had established the "requisite nexus" between the Danbury Road residence property and Mr. Brouillard's criminal activity, so that all of Mr. Brouillard's interest in such property was subject to criminal forfeiture.

Mr. Brouillard's sentencing hearing was convened on December 19, 2003. By that time, Mr. Jeffco had forwarded updated medical information to Mr. Irish. However, the parties had not had any further discussion about Mr. Brouillard's level of cooperation and the government's position on application of the safety valve. At the sentencing hearing, Mr. Jeffco represented to the Court that he and his client had reviewed the Presentence Investigation Report and that the Report was accurate. Mr. Jeffco further indicated that there was no objection to the Report, including the offense level calculation.

Mr. Jeffco made no response to the government's objection to the Presentence Investigation Report, causing Mr. Linehan to issue an Addendum withdrawing his determination that Mr. Brouillard was eligible for safety valve treatment. Mr. Jeffco claims he did not perceive any cause to respond to the government's position.

Mr. Jeffco was permitted an additional opportunity to address the Court. He urged a finding of "exceptional circumstances" based on the likelihood Mr. Brouillard would not receive the necessary medical treatment while being processed and placed as a new prisoner. Mr. Jeffco offered no other grounds for a sentence reduction or bases for objecting to the court's disposition.

The Court considered Mr. Irish's objection and assurances from the U.S. Probation Department and rejected Mr. Jeffco's position. Mr. Brouillard was taken into custody. On December 22, 2003, Mr. Jeffco filed an Emergency Motion to Stay Sentence and Permit Defendant to Self-Report, following indications from Mr. Brouillard and his wife, Krista Robbins, that he was being denied necessary medical treatment. The Court denied Mr. Jeffco's Motion.

On December 23, 2003, Mr. Jeffco filed Defendant's Notice of Appeal with the First Circuit Court of Appeals. Mr. Jeffco argued that the trial court erred by not affording Mr. Brouillard protection under the safety valve provision at 18 U.S.C. 3553(f) or Sect. 5C1.2 of the Sentencing Guidelines. He also argued that the trial court erred by declining to consider a downward departure from the statutory minimum sentence based on medical evidence offered under Section 5H1.4 of the Sentencing Guidelines. Mr. Jeffco, relying on the position he took in the earlier-filed Notice of Appeal, did not file an objection to the government's Motion for Summary Affirmance. Nor did Mr. Jeffco file any other document indicating he intended his Notice of Appeal to serve as an objection.

On December 29, 2004, the First Circuit Court of Appeals summarily affirmed the District Court's decision, finding that protection of the safety valve had not been requested and that Mr. Brouillard's argument in that regard was "forfeited." On February 14, 2005, Mr. Jeffco forwarded the First Circuit Court of Appeals decision to Mr. Brouillard, indicating that a recent court decision might offer some relief. Mr. Brouillard wrote to Mr. Jeffco on March 21, 2005, requesting copies of pleadings filed in the U.S. District Court and in the First Circuit Court of Appeals, as well as copies of correspondence with the U.S. Attorney.

Mr. Brouillard wrote again to Mr. Jeffco on May 20, 2005, after consulting with a "few lawyers as fellow inmates." Mr. Brouillard complained that he had not received the materials requested and that Mr. Jeffco had not handled the forfeiture issues properly, resulting in financial loss. Mr. Brouillard further noted that Mr. Jeffco, at the beginning of their relationship, had rejected the idea of obtaining outside legal assistance to help with the case and now proposed that "maybe together we can come up with a plan of attack to get back in front of Judge McAuliffe to get all the relief I am entitled to."

On June 6, 2005, Mr. Brouillard wrote to Mr. Jeffco. Mr. Brouillard indicated he was still confused as to why he did not receive offense level reduction under

the safety valve provisions of the Sentencing Guidelines, considering the terms of the plea agreement and the content of the original Presentence Investigation Report. He asked for an explanation of what happened and whether there was any other avenue of appeal. Mr. Brouillard acknowledges that he understood the government's determination not to file a Sect. 5K1.1 motion "due to my pro-offer sessions."

Mr. Jeffco did not respond to Mr. Brouillard's aforementioned correspondences in March, May, and June 2005. Mr. Jeffco does not remember receiving the May and June 2005 letters. On July 7, 2005, Mr. Brouillard, *pro se*, filed a Motion to Vacate Sentence.

At the re-sentencing hearing, the government represented that Mr. Brouillard was "fully compliant" with the requirements of the safety valve provision of the Sentencing Guidelines, allowing the Court to depart downward from the statutory minimum sentence. The Court ruled, as the Presentence Investigation Report had originally recommended, that the total offense level applicable to Mr. Brouillard's sentence was 23. The Court declined to afford Mr. Brouillard any further accommodation under the Sentencing Guidelines for his medical condition. The Court also declined to consider alleged disparities in disposition of cases against co-conspirators. By order of October 13, 2006, the U.S. District Court re-sentenced Mr. Brouillard to 36 months. Mr. Brouillard was released on December 17, 2006, after serving a total of 34 months in prison.

Stipulation ¶¶ 1-122, at 1 to 29.

## II. RULINGS OF LAW

The Respondent and the ADO have stipulated, and the Committee accepts the Stipulation, as to the Rules of Professional Conduct that were violated. The Stipulation establishes these violations by clear and convincing evidence:

### **Rule 1.3: Diligence**

There is clear and convincing evidence that Mr. Jeffco breached said duty, as follows:

- (a) Mr. Jeffco did not respond to the government's objection to the U.S. Probation Department's Presentence Investigation Report relative to the applicability of the safety valve provision of the federal Sentencing Guidelines, or contest the resulting change in the U.S. Probation Department's determination in this regard.

- (b) Mr. Jeffco did not address at the sentencing hearing whether the U.S. Probation Department had properly changed its determination of eligibility for safety valve treatment; whether the government was in breach of the plea agreement by opposing safety valve treatment; and whether Mr. Brouillard was or should be eligible for such treatment.
- (c) By failing to address material issues, as set forth above, Mr. Jeffco failed diligently to protect Mr. Brouillard's interests at sentencing and on appeal, thereby causing delay in obtaining more appropriate sentencing for Mr. Brouillard under the federal Sentencing Guidelines.

**Rule 1.4: Communication**

There is clear and convincing evidence that Mr. Jeffco breached said duty, as follows:

- (a) Mr. Jeffco failed to adequately advise Mr. Brouillard relative to the terms and effect of the plea agreement, with particular regard to the provision for safety valve treatment in sentencing and the government's position on application of the safety valve.
- (b) Mr. Jeffco failed to discuss with Mr. Brouillard and to advise him relative to the effect of the government's opposition to application of the safety valve, as articulated in the government's objection to the Presentence Investigation Report, and as anticipated at sentencing. Mr. Jeffco also failed to discuss appropriate strategy and alternative courses of action to protect Mr. Brouillard's interests in connection with sentencing.
- (c) Mr. Jeffco failed to timely respond to many of Mr. Brouillard's various telephone calls and written inquires, as set forth herein.

Stipulation ¶¶ 123-130, at 29 to 31.

**III. ANALYSIS**

Disciplinary action and sanctions are not intended as a mode of inflicting punishment. *Kersey's Case*, 150 N.H. 585, 586 (2004). Rather, 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). “The sanction must take into account the severity of the misconduct.” *Id.*

The New Hampshire Supreme Court and this Committee look to the American Bar Association’s *Standards for Imposing Lawyer Sanctions* (1992) (“*Standards*”) for guidance to determine the baseline sanction. *Coffey’s Case*, 152 N.H. 503, 513 (2005). The *Standards* set forth four factors to consider in imposing sanctions: “(a) the duty violated; (b) the lawyer’s mental state; (c) the potential or actual injury cause by the lawyer’s misconduct; and (d) the existence of aggravating or mitigating factors.” *Standards* § 3.0; *Coffey’s Case*, 152 N.H. 503, 513 (2005).

The first three parts in the analysis recommended in the *Standards* create the framework for characterizing the misconduct and determining a baseline sanction. After the baseline sanction is determined, the Court then looks to the fourth and final step in the analysis: the existence of any aggravating or mitigating factors and whether they affect the baseline sanction. *See Wolterbeek’s Case*, 152 N.H. 710, 714 (2005).

Under the first and second prongs of the analysis in this case, Mr. Jeffco’s violations are fairly characterized as a combination of knowing and negligent breaches of his duties to provide diligent representation and to communicate with his client. Under the third prong of the analysis, Mr. Jeffco acknowledges causing serious or potentially serious harm to his client by a) not diligently protecting his client’s rights in connection with implementation of a plea agreement, in sentencing, and in preserving his client’s rights on appeal; and b) by not adequately informing his client relative to the terms of a plea agreement, the consequences of the government’s position regarding implementation of the agreement, and alternative courses of action bearing on

final disposition of the pending criminal matters. The foregoing caused delay in obtaining more appropriate sentencing for Mr. Brouillard under the federal Sentencing Guidelines.

In determining a baseline sanction, the *Standards* offer the following guidance at Section 4.4: Lack of Diligence:

- 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 [in New Hampshire, Public Censure] 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 [in New Hampshire, Reprimand] 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

Upon consideration of the initial three-part test and the referenced language of the *Standards*, Mr. Jeffco's conduct warrants a baseline sanction of Public Censure.

The Committee identified Mr. Jeffco's substantial experience in the practice of law as an aggravating factor. By the same token, Mr. Jeffco's many years of practice without a prior disciplinary record is a significant mitigating factor.

Accordingly, the Committee concludes, and the Respondent and Assistant Disciplinary

Counsel stipulate, that the appropriate sanction in this matter is Public Censure.

#### IV. SANCTION

It is the Committee's view that the public can be protected, public confidence in the Bar can be maintained, and the integrity of the legal profession can be preserved by imposing a Public Censure.

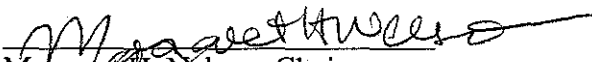
#### V. CONCLUSION

Based on the above reasons, having found violations of N.H. R. Prof. Conduct 1.3; 1.4 and 8.4(a) by clear and convincing evidence, the Committee issues a Public Censure to the Respondent. Mr. Jeffco is also assessed all costs associated with the investigation and prosecution of this matter.

#### VI. RIGHT TO APPEAL

Pursuant to Supreme Court Rule 37(A)(III)(d)(2)(D)(4)(A), Mr. Jeffco has the right to appeal this decision to the New Hampshire Supreme Court. *See also* Supreme Court Rule 37(3)(c).

February 21, 2009

  
Margaret H. Nelson, Chair

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