

New Hampshire Supreme Court

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4 Chenell Drive, Suite 102
Concord, New Hampshire 03301
603-224-5828 ♦ Fax 228-9511

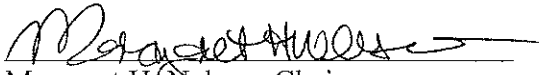
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Green, Paula J. advs. Cheryl A. Casasanta #08-041

REPRIMAND

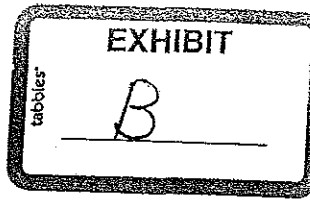
On July 21, 2009, the Professional Conduct Committee, upon consideration, voted grant the Motion to Permit Waiver of Hearings Committee Process and to issue a Reprimand in the above-captioned matter on the basis of the Stipulation filed by the parties attached hereto and made part thereof.

July 21, 2009


Margaret H. Nelson, Chair

Distribution:

Landya B. McCafferty, Disciplinary Counsel
Paula J. Green, Esquire
Cheryl A. Casasanta
File



**NEW HAMPSHIRE SUPREME COURT
ATTORNEY DISCIPLINE OFFICE**

Green, Paula J.

advs.

Cheryl A. Casasanta

#08-041

**STIPULATION AS TO FACTS, VIOLATIONS,
AND SANCTION**

The Attorney Discipline Office and the Respondent stipulate as follows:

I. Stipulation as to Facts

1. Paula J. Green is an attorney licensed to practice law in New Hampshire. Ms. Green was admitted to practice on October 28, 1996. At all times material to this proceeding, Ms. Green operated her law office as Law Offices of Paula J. Green, PLLC, located at 67 Central Street, Manchester, New Hampshire 03101.
2. Ms. Green represented Cheryl A. Casasanta in her uncontested divorce, which became final on March 10, 2008.
3. The Divorce Decree awarded Ms. Casasanta a portion of her ex-husband's 401(K) plan and a portion of two of his other pension plans.
4. The Divorce Decree further provided that the parties were responsible for the preparation of any Qualified Domestic Relations Orders ("QDROs")

necessary to effectuate the Decree's division of retirement assets.

5. After the divorce became final, Ms. Casasanta needed three QDROs prepared, one for each of her ex-husband's retirement assets.
6. Shortly after her divorce, Ms. Casasanta became concerned that her ex-husband was spending down the assets in his 401(K) plan.
7. After the divorce became final, Ms. Casasanta wanted to effectuate as soon as possible the transfer of funds (to which she was entitled pursuant to the Decree) from his 401(K) plan into her savings account.
8. In or about late March 2008, Ms. Casasanta asked Ms. Green to prepare and finalize the necessary QDRO to effectuate this transfer.
9. Ms. Casasanta was less concerned about the pension plans, because her ex-husband was not close to retirement age and he, therefore, had no access to those funds. However, she was concerned about the 401(K), as he did have access to those funds.
10. Between April and July of 2008, Ms. Casasanta telephoned Ms. Green's office and left numerous voicemail messages about her desire to finalize the QDRO for the 401(K) and effectuate the transfer of these funds to herself.
11. Ms. Casasanta claims that she made approximately twelve (12) phone calls to Ms. Green during this time period, all of which went unanswered.
12. Ms. Casasanta also sent Ms. Green numerous email messages explaining her desire to finalize the QDROs.

13. For instance, on April 29, 2008, Ms. Casasanta wrote in an email to Ms.

Green:

I have called your office several times, no one ever answers the phone and it is difficult to get a return call and I have sent a few emails and not heard back. Last week I got in touch with Donna and she said you had the qdro's on your desk and that you were working on them.

Do you have an estimated time of completion? I would like to wrap all of this up. A response would be greatly appreciated. Thank you for your time.

14. On May 8, 2008, Ms. Casasanta wrote in an email:

I have called your office several times since March (when the divorce was final) regarding the QDRO's and have not gotten a return phone call. Your secretary is not sure of what is going on and has no answers for me.

If this goes on any longer, I am going to request monthly interest on the 401K money if it is not done soon. I am losing approx. \$100. each and every mo. in interest for each and every month that the funds are not deposited into my account. The longer this goes on the more money I lose. I am also running the risk of John spending the money and there won't be any for me to get. Currently I know he is using those funds to live.

I am forwarding the last email that I sent to you, which I got no response from as well. If you would like me to have someone else handle this, please advise.

15. In an email dated May 12, 2008, Ms. Green wrote to Ms. Casasanta:

There are three QDROS that have to be done and it is not as simple as you might assume, especially when the plan administrators don't provide us with forms and we have to create them ourselves. I am also not quite sure why we are doing all three as opposed to John's attorney doing some of them. Donna is working on trying to track down all of the pertinent information for all three.

If you would like someone else to handle it and can find someone who can do it sooner, that is fine with me.

16. In response to Ms. Green's email, Ms. Casasanta wrote:

Thank you for your response. It is greatly appreciated. I am sure it is not an easy thing to do but it is very frustrating and unsettling for me to get no response whatsoever from your office. Ninety percent of the time nobody answers the phone, and if I leave a message, I get no response and if I email I usually get no response. I do not know why John's attorney is not helping maybe if you see her you could ask her that. My guess is that John is not asking her to as he does not want to give me the money. He is non-responsive to me.

Nobody is retiring tomorrow so there is not that much urgency on the Osram and Philips pensions. My main concern is the 401K monies from Siemens. That is the money I would like handled ASAP. If you just want to take care of that, then John's attorney can do the other two. I think Donna did say she had the info. from the 401K. If you can just get that one done, then John's attorney can do the rest. Like I said I am concerned that he will spend down the monies.

Thank you Paula.

17. On May 15, 2008, Ms. Green wrote in an email to Ms. Casasanta:

For the moment we are focusing on the Siemens and Donna finally was able to reach someone who directed us to a website that appears to make at least theirs very simple.

18. On June 10, 2008, Ms. Casasanta wrote in an email to Ms. Green:

As you can see it has been almost a month since I last contacted you regarding these. I called your office yesterday and left a voice mail message with Donna for an update and an estimated timeframe these [sic] would be complete. I asked for a return phone call one way or the other to let me know what is going on and I have yet to get a response.

I get no response at all from John on whether or not he is working with Joanne on these. My only option is to bother you about them.

Update please.

Thank you.

19. Having heard no response from Ms. Green, on June 25, 2008, Ms.

Casasanta wrote in an email:

Do you have the forms you need to complete these? Donna keeps telling me they are on your desk and someone will get back to me but I have emails dating back to the beginning of April with the same story. Is there any way that I can help or anything I can do to speed up the process? Would someone please let me know what is going on with them?

20. Having heard no response from Ms. Green, on July 1, 2008, Ms.

Casasanta telephoned Ms. Green's office and spoke to her secretary, Donna. Donna stated that the forms had moved from Ms. Green's desk and into her briefcase, and that Ms. Green was working on the forms.

21. Having heard no response from Ms. Green, on July 7, 2008, Ms.

Casasanta telephoned Ms. Green's office and again spoke to her secretary, Donna. Donna indicated that Ms. Green had the forms, was working on them, and that Donna would investigate their status and get back to Ms. Casasanta on her inquiry.

22. On that same date, Ms. Casasanta followed up her telephone

conversation with Donna with the following email to both of them:

This email is a follow-up to the conversation that I had with you last week and this morning regarding the outstanding QDRO's from the 3/10/08 divorce. This Thursday it has been 4 months since my divorce and I have logged numerous telephone calls and emails to follow-up on these and see where they stand and to get a status on these.

I have also called previously to request an increase in the amount of the Siemens 401K QDRO for John's shortage to me on the tax liability per the divorce agreement as well as the accountant fee that I paid to prepare the documents and have gotten no response from that request either.

I do not want to have my boss call your office again on my behalf to request that my lawyer do her job like I had to early on in the divorce to get the process started. Obviously, at this point, I feel my efforts have been fruitless and this has become absurd. The lack of response and professionalism in that office is unacceptable as well as unethical. If I do not receive a response by the end of today to let me know when I can sign off on these within the next 5 days, you are leaving me no choice but to file a formal complaint with Janet F. DeVito of the New Hampshire Supreme Court Attorney Discipline Office. I have been more than patient with regards to these QDRO's.

Thank you for your time in the aforementioned matter and I look forward to some kind of a response.

23. Having heard no response from Ms. Green, on July 14, 2008, Ms. Casasanta drafted a letter of complaint against Ms. Green and filed it with the Attorney Discipline Office.

II. Stipulation as to Disciplinary Rules Violated

24. Ms. Green's conduct as described herein raises questions under New Hampshire Rules of Professional Conduct 1.4(a) and 8.4(a).

Rule 1.4(a): Client Communications

25. Factual findings set forth above are incorporated by reference.
26. Rule 1.4 provides:
- (a) A lawyer shall:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

- (3) keep the client reasonably informed about the status of the matter.
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain the legal and practical aspects of a matter and alternative courses of action to the extent that such explanation is reasonably necessary to permit the client to make informed decisions regarding the representation.

27. Pursuant to that Rule, Ms. Green had a duty to keep Ms. Casasanta reasonably informed regarding the status of the QDROs. She also had a duty to promptly comply with Ms. Casasanta's reasonable requests for information.
28. Shortly after the divorce, Ms. Green was aware of Ms. Casasanta's request to have the QDRO for her ex-husband's 401(K) finalized quickly following the divorce.
29. Between late March and July 14, 2008 (the date of this complaint), Ms. Green failed to properly communicate with Ms. Casasanta regarding the QDRO's, and specifically neglected to respond in either a timely or meaningful manner to her many inquiries regarding the QDRO for the 401(K).
30. On May 15, 2008, Ms. Green indicated in an email to Ms. Casasanta that she was processing the QDRO for the 401(K), and that it looked "very simple."

31. Ms. Green's May 15 email was the last communication Ms. Casasanta received from Ms. Green.
32. Between May 16 and July 14, 2008, the date on which Ms. Casasanta filed her professional conduct complaint, Ms. Green failed to respond to any of Ms. Casasanta's telephone and/or email inquiries about the status of the QDRO for the 401(K).
33. Under the circumstances, Ms. Casasanta's inquiries were reasonable. Ms. Casasanta wanted the QDRO to be finalized quickly and she made that clear to Ms. Green.
34. Ms. Green's failures to respond in a timely and meaningful manner to Ms. Casasanta's reasonable inquiries about the status of the QDROs constitutes a violation of her obligation to keep Ms. Casasanta reasonably informed about the status of a matter.
35. Ms. Green's failures in this regard constitute clear and convincing evidence of a violation of Rule 1.4(a). See N.H. R. Prof. Conduct 1.4(a)(3)-(4).

Rule 3.4(a): General Rule

36. Because there exists clear and convincing evidence of the above violation as set forth herein, Ms. Green has necessarily violated Rule 8.4(a).

III. Stipulation as to Sanction

37. The Attorney Discipline Office and Ms. Green jointly recommend a reprimand as the appropriate sanction in this matter. Ms. Green has no disciplinary history, has accepted full responsibility for her misconduct,

and has expressed remorse. A reprimand is consistent with the purposes of attorney discipline in New Hampshire.

38. For these reasons, the Attorney Discipline Office and Ms. Green respectfully ask the Professional Conduct Committee to issue a reprimand in this matter.

IV. Costs

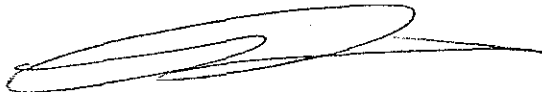
39. Ms. Green agrees to pay the expenses incurred by the Attorney Discipline Office and the Professional Conduct Committee in the investigation and prosecution of this matter.

V. Effect of Stipulation

40. Ms. Green understands that by signing this Stipulation, she is hereby bound to the facts and rule violations as stipulated. In the event that the Professional Conduct Committee does not agree with the Stipulation as to Rule Violations and Sanction, Ms. Green is nonetheless hereafter bound to the facts and rule violations as stipulated.

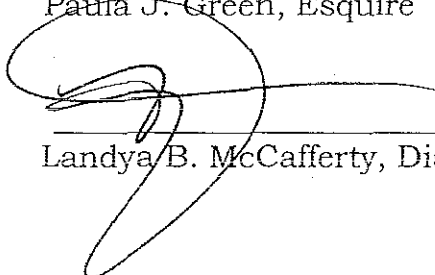
Respectfully submitted,

Dated: 6/9, 2009



Paula J. Green, Esquire

Dated: 6/10, 2009



Landya B. McCafferty, Disciplinary Counsel