

New Hampshire Supreme Court
Professional Conduct Committee

Margaret H. Nelson, Chair
Benette Pizzimenti, Vice Chair
Toni M. Gray,* Vice Chair
David N. Cole
Thomas P. Connair
Alan J. Cronheim
Nancy R. Hacking*

4 Park Street, Suite 304
Concord, New Hampshire 03301
603-224-5828 ♦ Fax 228-9511

Gretchen Rule Hamel
James R. Martin
Richard B. McNamara
David N. Page*
Stephen B. Stepanek*
* non attorney member

Holly B. Fazzino, Admin. Coordinator

Hall, Ruth A. advs. Professional Conduct Committee #03-087

**ORDER ON MOTION TO PERMIT WAIVER OF HEARINGS COMMITTEE PROCESS
and
PUBLIC CENSURE**

On June 21, 2005, Professional Conduct Committee considered the above-captioned matter. The matter was presented pursuant to NH Sup. Ct. R. 37(A)(111) by letter from Landya B. McCafferty, Disciplinary Counsel, dated May 27, 2005, Motion to Permit Waiver of Hearings Committee Process and Stipulation as to Facts and Sanction.

Members present included: Benette Pizzimenti, Vice Chair, Toni M. Gray, Vice Chair, Thomas C. Connair, Reporter, James R. Martin, Richard B. McNamara, David N. Page, Alan Cronheim, David N. Cole, Nancy R. Hacking, Gretchen Rule Hamel. Margaret H. Nelson, Chair, and Stephen B. Stepanek were absent from the meeting.

After deliberation, the Committee voted to GRANT Disciplinary Counsel's Motion to Permit Waiver of the Hearings Committee Process.

I. FACTUAL FINDINGS

The Professional Conduct Committee determined that the record supports the Findings of Fact by clear and convincing evidence as outlined in the Stipulation of Facts and Sanction enclosed herewith and made part thereof.

II. RULINGS OF LAW

The attached Stipulation of Facts and Sanction, having been found by clear and convincing evidence, the Professional Conduct Committee concludes that there is clear and convincing evidence that Ruth A. Hall violated the Rules of Professional Conduct: Rule 4.2: Communication With Person Represented by Counsel; Rule 8.4(a): Catch-all Rule.

III. SANCTION

Having made the above findings and rulings, the Professional Conduct Committee concludes that the appropriate discipline in this matter is a Public Censure. This sanction is in accord with the purpose of attorney discipline as described by the New Hampshire Supreme Court and with the ABA Center for Professional Responsibility, Standards for Imposing Lawyer Sanctions (1991). *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).

IV. CONCLUSION

For the above reasons, the Professional Conduct Committee issued a Public Censure to Ruth A. Hall for violating N.H. Prof. Conduct Rules 4.2 and 8.4(a).

Date: 6/29/05

By: Benette Pizzimenti
Benette Pizzimenti
Vice Chair

cc: Landya B. McCafferty, Disciplinary Counsel
Ruth A. Hall, Esquire
File

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Hall, Ruth A.

advs.

Professional Conduct Committee

#03-087

MOTION TO PERMIT
WAIVER OF HEARINGS COMMITTEE PROCESS

NOW COMES Landya B. McCafferty, Disciplinary Counsel, and respectfully requests that the Professional Conduct Committee permit all parties to waive the process before the Hearings Committee and seek a ruling from the Professional Conduct Committee in this matter.

In support, Disciplinary Counsel states as follows:

1. On May 20, 2005, Disciplinary Counsel issued a Notice of Charges in this matter. (A copy of the Notice of Charges is attached hereto as Exhibit 1.)
2. Disciplinary Counsel and Ms. Hall have executed a "Stipulation of Facts and Sanction" dated May 25, 2005. (A copy of the "Stipulation of Facts and Sanction" is attached as Exhibit 2.)

3. In that "Stipulation of Facts and Sanction," Ms. Hall conceded all allegations contained in the Notice of Charges and agreed that a Public Censure was the appropriate sanction.
4. Disciplinary Counsel discussed with Ms. Hall the possibility of waiving the hearing before the Hearings Committee and seeking a more expeditious result directly from the Professional Conduct Committee.
5. Disciplinary Counsel finds support for the proposition that the parties can seek a waiver of the process before the Hearings Committee in the "Preface" to N.H. Sup. Ct. R. 37A(III). That Rule states: "As good cause appears and as justice may require, the professional conduct committee may waive the application of any rule under this section."
6. Where, as is the case here, the Respondent and Disciplinary Counsel have entered into a stipulation on both facts and sanction, there is "good cause" to permit the parties to waive the Hearings Committee process and seek the Committee's ruling on the pleadings.
7. All parties agree that this request is made in an effort to seek a more expeditious result while preserving scarce judicial resources.
8. In the event the Committee grants this request, all parties agree to waive oral argument before the Committee.

WHEREFORE, Disciplinary Counsel respectfully requests that this Honorable Committee:

- A. Grant this "Motion To Permit Waiver Of Hearings Committee Process";
- B. Issue a Ruling on the basis of the Notice of Charges and "Stipulation of Facts and Sanction"; and
- C. Grant such other relief as is fair and in the public interest.

Respectfully submitted,

New Hampshire Supreme Court
Attorney Discipline Office
4 Park Street, Suite 304
Concord, New Hampshire 03301
(603) 224-5828

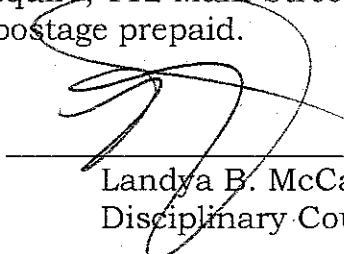
Dated: May 27, 2005

By: 

Landya B. McCafferty
Disciplinary Counsel

CERTIFICATION

I, Landya B. McCafferty, Disciplinary Counsel of the New Hampshire Supreme Court Attorney Discipline Office, certify that a copy aforesaid "Motion To Permit Waiver Of Hearings Committee Process" is being sent on this 27th day of May, 2005 to Ruth A. Hall, Esquire, 112 Main Street, Union, New Hampshire 03887, by regular mail postage prepaid.


Landya B. McCafferty
Disciplinary Counsel



NEW HAMPSHIRE SUPREME COURT
ATTORNEY DISCIPLINE OFFICE

Hall, Ruth A.

advs.

Professional Conduct Committee

#03-087

NOTICE OF CHARGES

1. This Notice of Charges is issued pursuant to New Hampshire Supreme Court Rule 37A(III)(b)(2). In accordance with that Rule, this Notice of Charges sets forth both the allegations of misconduct against you, as well as the disciplinary rules alleged to have been violated.

Summary of Allegations

2. In 2003, you represented Heathcliff Carew in a criminal case entitled United States of America v. Stanley Stewart and Heathcliff Carew (Docket nos. 03-78-01, 02-M). James D. Gleason represented the co-defendant, Mr. Stewart.
3. Mr. Carew's trial was scheduled for September 23, 2003, at the United States District Court for the District of New Hampshire.
4. On or about August 21, 2003, you went to Essex County Jail in Middleton, Massachusetts to visit Mr. Carew. Shortly before that visit,

you had had a meeting with Mr. Gleason about the case. You were therefore aware at the time that Mr. Gleason was representing Mr. Stewart.

5. At the time of your meeting with Mr. Carew on or about August 21, 2003, you understood that Mr. Stewart had “emphatically asserted” that Mr. Carew had no involvement in the underlying criminal matter and had other information relevant to your client’s defense. While at the jail speaking with Mr. Carew, you were reminded that Mr. Stewart was in the same facility.
6. After visiting with Mr. Carew at the jail, you requested to speak with Mr. Stewart. Mr. Stewart agreed to speak with you. You learned that Mr. Stewart was willing to testify that Mr. Carew had no knowledge of the underlying criminal activity. Mr. Stewart also provided you with the name and address of a witness in the case.
7. On August 25, 2003, you attended Mr. Stewart’s “change of plea” hearing. On that date, Mr. Stewart changed his plea from “not guilty” to “guilty,” and the Court accepted his change of plea and scheduled a sentencing hearing for November 24, 2003.
8. Moments before the hearing, you informed Mr. Gleason that you had met with Mr. Stewart the previous week. Mr. Gleason alerted you that your conduct implicated New Hampshire Rule of Professional Conduct 4.2. You stated something to the effect that you were simply “interviewing a witness” who “just happened to be a codefendant.”

9. After reviewing Rule 4.2, you self-reported your misconduct by letter to the Professional Conduct Committee dated September 2, 2003.

Alleged Disciplinary Rules Violated

10. Your conduct in this case raises questions under New Hampshire Rules of Professional Conduct **4.2 and 8.4(a)**.

Rule 4.2: Communication with Person Represented by Counsel

11. On or about August 21, 2003, you spoke with a co-defendant (Mr. Stewart), whom you knew to be represented by counsel (Mr. Gleason), about the subject of the representation. You did not have Mr. Gleason's consent to speak with Mr. Stewart, and you were not authorized by law to speak with him.
12. If proven by clear and convincing evidence, your conduct in this regard would constitute a violation of Rule 4.2.

Rule 8.4(a): Catch-all Rule

13. In the event that any one of the above allegations is proven by clear and convincing evidence, this would necessarily constitute a violation of Rule 8.4(a).

Conclusion

14. You are advised that you must answer this Notice of Charges within 30 days of the date of your receipt of this Notice of Charges. See Sup. Ct. R. 37A(III)(b)(3)(A). Your answer must be in writing, must respond

specifically to each allegation of this Notice of Charges, and must assert all affirmative defenses. See Sup. Ct. R. 37A(III)(b)(3)(B).

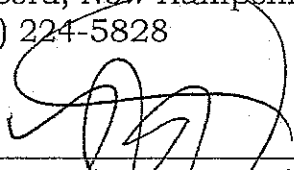
15. **In the event you fail to file an answer, the allegations set forth in this Notice of Charges “shall be deemed to be admitted.”** See Sup. Ct. R. 37A(III)(b)(3)(A).
16. It is the duty of Disciplinary Counsel to request that the chair of the Hearings Committee appoint a hearing panel in this matter either upon receiving an answer from you, or upon the expiration of the 30-day period for you to file an answer. See Sup. Ct. R. 37A(III)(b)(4).
17. You are advised that you have the right to be represented by counsel, and to testify and present evidence on your own behalf. See Sup. Ct. R. 37A(III)(b)(2).
18. This Notice of Charges and the file of Disciplinary Counsel (other than work product and internal memoranda of the Attorney Discipline Office) is now a public file. Further, the proceedings related to this Notice of Charges that take place before the Hearings Committee and Professional Conduct Committee, as well as the written decisions (other than work product, internal memoranda, and deliberations) of both, shall be public. See Sup. Ct. R. 37(20)(b)(2).
19. Your attention is also directed to Supreme Court Rule 37A(III)(b)(5), which governs discovery in this matter, as well as subsection (6) of that Rule, which provides for a pre-hearing conference. In the absence of “good cause,” such pre-hearing conference must be requested within 30

days of the appointment of a hearing panel in this matter. See Sup. Ct.
R. 37A(III)(b)(6)(A).

New Hampshire Supreme Court
Attorney Discipline Office
4 Park Street, Suite 304
Concord, New Hampshire 03301
(603) 224-5828

Date: May 20, 2005

By: _____

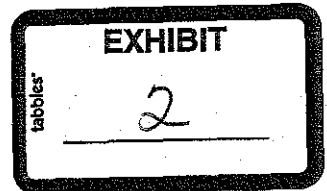

Landya B. McCafferty
Disciplinary Counsel

CERTIFICATION

I, Landya B. McCafferty, Disciplinary Counsel of the New Hampshire Supreme Court Attorney Discipline Office, certify that the original of the aforesaid Notice of Charges is being sent on this 20th day of May, 2005 to Ruth A. Hall, Esquire, Attorney at Law, 112 Main Street, Union, New Hampshire 03887, by certified mail #7002 3150 0001 5385 5696, return receipt requested and a copy by regular mail postage prepaid.



Landya B. McCafferty
Disciplinary Counsel



NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Hall, Ruth A.

advs.

Professional Conduct Committee

#03-087

STIPULATION AS TO FACTS AND SANCTION

Disciplinary Counsel, Landya B. McCafferty, and Respondent, Ruth A.

Hall, hereby submit this Stipulation in the above-referenced case.

I. Stipulation of Facts

1. In 2003, Ruth A. Hall represented Heathcliff Carew in a criminal case entitled United States of America v. Stanley Stewart and Heathcliff Carew (Docket nos. 03-78-01, 02-M). James D. Gleason represented the co-defendant, Mr. Stewart.
2. Mr. Carew's trial was scheduled for September 23, 2003, at the United States District Court for the District of New Hampshire.
3. On or about August 21, 2003, Ms. Hall went to Essex County Jail in Middleton, Massachusetts to visit Mr. Carew. Shortly before that visit, Ms. Hall had had a telephone conversation with Mr. Gleason about the

case. Ms. Hall was aware at the time that Mr. Gleason was representing Mr. Stewart..

4. At the time of Ms. Hall's meeting with Mr. Carew on or about August 21, 2003, Ms. Hall understood that Mr. Stewart had "emphatically asserted" that Mr. Carew had no involvement in the underlying criminal matter and had other information relevant to Ms. Hall's client's defense. While at the jail speaking with Mr. Carew, Ms. Hall was reminded that Mr. Stewart was in the same facility.
5. After visiting with Mr. Carew at the jail, Ms. Hall requested to speak with Mr. Stewart. Mr. Stewart agreed to speak with Ms. Hall. Ms. Hall learned that Mr. Stewart was willing to testify that Mr. Carew had no knowledge of the underlying criminal activity. Mr. Stewart also provided Ms. Hall with the name and address of a witness in the case.
6. On August 25, 2003, Ms. Hall attended Mr. Stewart's "change of plea" hearing. On that date, Mr. Stewart changed his plea from "not guilty" to "guilty," and the Court accepted his change of plea and scheduled a sentencing hearing for November 24, 2003.
7. Shortly before the hearing, Ms. Hall informed Mr. Gleason that Ms. Hall had met with Mr. Stewart the previous week. Mr. Gleason alerted Ms. Hall that her conduct implicated New Hampshire Rule of Professional Conduct 4.2.
8. After reviewing Rule 4.2, Ms. Hall self-reported her misconduct by letter to the Professional Conduct Committee dated September 2, 2003.

II. Stipulation as to Rules Violated

Rule 4.2: Communication with Person Represented by Counsel

9. On or about August 21, 2003, Ms. Hall spoke with a co-defendant (Mr. Stewart), whom she knew to be represented by counsel (Mr. Gleason), about the underlying criminal case. Ms. Hall did not have Mr. Gleason's consent to speak with Mr. Stewart, and Ms. Hall was not authorized by law to speak with him.
10. Because of the aforesaid conversation with Mr. Stewart, there exists clear and convincing evidence that Ms. Hall violated N.H. R. Prof. Conduct Rule 4.2.

Rule 8.4(a): Catch-all rule

11. Because there exists clear and convincing evidence that Ms. Hall violated the above rule, there is necessarily clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(a).

III. Stipulation as to Sanction

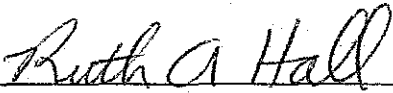
12. The parties agree that a sanction of Public Censure is the appropriate discipline in this matter.
13. Ms. Hall has a prior disciplinary history, a copy of which is attached hereto. See ABA Standards for Imposing Lawyer Sanctions § 9.22(a) (1992) (listing "prior disciplinary offenses" as an aggravating factor).
14. A Public Censure in this matter will satisfy all four goals of attorney discipline: protection of the public, maintaining public confidence in the bar, preserving the integrity of the legal profession, and preventing

similar conduct in the future. See, e.g., Richmond's Case, No.

LD-2003-001, slip op. at 3 (N.H. May 6, 2005).

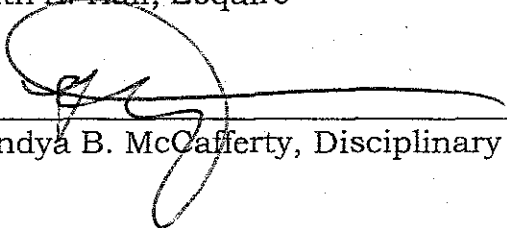
Respectfully submitted

Dated: 5/24, 2005



Ruth A. Hall, Esquire

Dated: 5/25, 2005



Landya B. McCafferty, Disciplinary Counsel



The State of New Hampshire Supreme Court

*Professional Conduct Committee • 4 Park Street, Suite 304 • Concord, New Hampshire 03301
(603) 224-5828*

June 23, 1993

Ruth A. Hall, Esquire
10 Second Street, Suite J
Dover, New Hampshire 03820

Re: Hall, Ruth A. advs. Professional Conduct Committee - #92-160

ADMONITION

Dear Ms. Hall:

At its regular meeting held on Wednesday, June 16, 1993, the Professional Conduct Committee thoroughly reviewed the entire record of the above entitled matter.

After giving due consideration to this record the Committee finds that you had a trust account shortage attributed to the actions of your employee, Sharon Lehman; that you did not monitor the activity or review the work of Ms. Lehman; that no matter the training or system used, there was no reasonable oversight of the trust account records; and that most of the trust account records were not in your office.

The Committee finds that because of the above conduct you are guilty of professional misconduct and in violation of Rules 5.3(a), 5.3(b) and 8.4(a).

Pursuant to § 2.8 of the Committee's Rules and Procedures, you have the right to demand that the Committee institute formal proceedings before a hearing panel. Such a demand shall be in writing and shall be filed with the Committee within 30 days of the date of this Admonition. In the event of such demand, the Admonition shall be vacated and the hearing panel shall not be bound by its terms, but may take any appropriate action authorized by the Rules of the Committee or the Rules of the New Hampshire Supreme Court, including a Reprimand or referral to the New Hampshire Supreme Court.

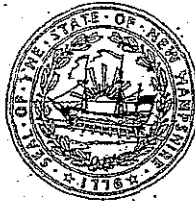
Page Two
Ruth A. Hall, Esquire
Re: #92-160

A copy of this Admonition will be placed in your permanent file. The record of the Admonition may be considered by this Committee in the event other charges of misconduct are subsequently brought against you.

The Professional Conduct Committee

By: Peter F. Kearns, Chairperson

PEK/bjl



The State of New Hampshire Supreme Court

*Professional Conduct Committee • 4 Park Street, Suite 304 • Concord, New Hampshire 03301
(603) 224-5828 • fax (603) 228-9511*

May 27, 2003

Ruth A. Hall, Esquire
112 Main Street
Union, New Hampshire 03887

Re: Hall, Ruth A. advs. Robert P. Sullivan
Sullivan, Robert P. advs. Ruth A. Hall
#01-071

REPRIMAND

Dear Ms. Hall:

At its regular meeting held on Wednesday, May 21, 2003, the Professional Conduct Committee thoroughly reviewed the entire record of the above entitled matter.

After giving due consideration to this record the Committee finds that on June 15, 2001 you went to the Portsmouth Police Department Office of Records seeking to obtain file information related to the matter of Kimberly Phillips v. Katherine McGauffin. You brought a subpoena with you and sought the appropriate person on whom to serve it. You served the subpoena on Assistant County Attorney Donald L. Blaszk. Following that encounter Police Chief Russ telephoned you in an attempt to resolve the matter. You did not return the call. Portsmouth City Attorney Robert P. Sullivan telephoned you on Monday, June 18, 2001 and indicated that there might be a matter of professional conduct involved and asked you to return the call to discuss resolution. You did not return that call.

Mr. Blaszk filed a Motion to Quash Subpoena the day he was served: June 15, 2001. The Court granted the motion on June 18, 2001.

Mr. Sullivan filed this complaint against you on July 3, 2001, alleging abusive behavior and your attempt to compel production of records through an improperly executed and delivered subpoena. You filed a cross-complaint in an undated letter, later attested to (on August 6, 2001) with a notarized signature and follow-up letter. The complaint denies the allegations in Mr. Sullivan's complaint and suggests that a motive for Mr. Sullivan's complaint might be to distract you and the court from the Police Department's failure to pursue the underlying case.

Page 2

Ruth A. Hall, Esquire

Re: #01-071

May 27, 2003

The Committee found that there was clear and convincing evidence that the filing of your cross-complaint was without a factual basis and constituted a frivolous filing. It found that you accused members of the Police Department of untruths without evidence, impugned the integrity of the members of that department with respect to their handling of the underlying case without a good faith factual basis.

The Committee finds that because of the above conduct you are guilty of professional misconduct and in violation of Rules 3.1 and 8.4(a) of the Rules of Professional Conduct.

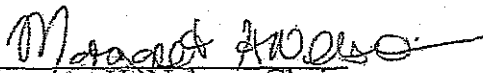
This letter of Reprimand is issued because of this misconduct and a copy will be placed in your permanent file. The findings in this matter may be considered in determining the severity of discipline imposed for any further violation.

You are entitled to appeal a Reprimand by filing a written notice of appeal in accordance with the Rules of the New Hampshire Supreme Court.

Finally, the Committee made no findings with regard to Rules 3.3(a)(1); 4.4; 4.5; 8.2(a) and 8.4(c).

With regard to your cross-complaint against Mr. Sullivan, the Committee dismissed the complaint with a finding of no professional misconduct on the part of Mr. Sullivan.

The Professional Conduct Committee

By: 
Margaret H. Nelson, Chair

MHN/bg

cc: Stan Hawthorne, Esquire
Robert P. Sullivan, Esquire

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