

New Hampshire Supreme Court
Professional Conduct Committee

a committee of the attorney discipline system

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Boehm, Lenora E. advs. Kimberly Frederickson # 08-055

**SIX MONTH SUSPENSION
WITH THREE MONTHS STAYED
WITH CONDITIONS FOR TWO YEARS**

On January 19, 2010, the Professional Conduct Committee (“Committee”) deliberated the above captioned matter. Members present were: Margaret H. Nelson, Chair, Toni M. Gray, Vice Chair, Susan R. Chollet, David N. Cole, Thomas P. Connair, Alan J. Cronheim, Gerald A. Daley, Richard H. Darling, and James R. Martin. Benette Pizzimenti, Vice Chair, and Jennifer L. Parent were absent. Oral Argument was not requested by the parties.

Having reviewed the record, including the Notice of Charges, Answer, Stipulation as to Facts and Violations, Ms. Boehm’s Memorandum in Support of Proposed Sanction, and the Hearing Panel Report, the Committee makes factual findings and rulings as detailed below:

I. FINDINGS OF FACT

The parties stipulated to, and the Committee thus finds, by clear and convincing evidence, the following facts:

1. Ms. Boehm is an attorney licensed to practice law in New Hampshire. Ms. Boehm was admitted to practice in 1990. Until November 1, 2008, Ms. Boehm operated her law

office as Barnes, Boehm & Wright, 8 Court Street, Concord, New Hampshire 03301. At all times after November 1, 2008, Ms. Boehm has practiced law at Boehm & Wright, PLLC, 1 Capitol Street, 2nd Floor, Concord, New Hampshire 03301.

2. In 2007, Kimberly Frederickson filed a Petition for Legal Separation, seeking a divorce from her then-husband, David Gagne, on grounds of adultery and injurious treatment. Her case was filed in Concord Family Division, and was entitled, *In the Matter of Kimberly Frederickson and David Gagne*, docket no. 2007-DM-630. On December 7, 2007, Ms. Boehm filed her Appearance on behalf of Mr. Gagne. Ms. Boehm continues to represent Mr. Gagne in that matter.
3. On or about October 24, 2008, Ms. Frederickson hand-delivered an undated letter of complaint against Ms. Boehm to the Attorney Discipline Office (ADO), alleging professional misconduct stemming from Ms. Boehm's representation of Mr. Gagne.
4. In a letter dated October 27, 2008, Janet F. DeVito, Assistant General Counsel, forwarded a copy of Ms. Frederickson's grievance to Ms. Boehm, offering Ms. Boehm the opportunity to respond (on a voluntary basis) at the earliest stage of the ADO's investigation of the matter. Ms. Boehm did not elect to respond to Ms. DeVito's October 27, 2008, letter.
5. In a letter to Ms. Boehm dated December 11, 2008, Thomas V. Trevethick, Deputy General Counsel, enclosed a copy of Ms. Frederickson's grievance against Ms. Boehm and informed her that the ADO was docketing a formal complaint against Ms. Boehm on the basis of Ms. Frederickson's grievance. Mr. Trevethick's December 11 letter states:

Dear Ms. Boehm:

I am forwarding herewith a copy of a professional conduct complaint filed by Kimberly S. Frederickson. We have docketed this matter for further review.

You are required to submit an original and two copies of your reply within 30 days of the date of this letter to James L. DeHart, General Counsel, Attorney Discipline Office, 4 Chenell Drive, Suite 102, Concord, New Hampshire 03301. See Supreme Court Rule 37A(II)(a)(5)(C).

IT IS EXPECTED THAT YOU WILL PROMPTLY RESPOND TO THE REQUESTS OF THIS OFFICE. THE FAILURE TO COOPERATE WITH A DISCIPLINARY AGENCY COULD RESULT IN THE SCHEDULING OF A PUBLIC HEARING AND IN A FINDING THAT THE RULES OF PROFESSIONAL CONDUCT HAVE BEEN VIOLATED. RULE 8.1(b).

A copy of your reply must be forwarded to the complainant for her information and comment. Also enclosed is a Certification of Copies form that must be attached to any letters you file.

Following receipt of your reply and the response from the complainant, the Attorney Discipline Office will take any further action it considers appropriate.

Please be advised that all matters relating to complaints submitted to this Office, and any action taken by this Office or the Complaint Screening Committee, shall be kept confidential until otherwise provided by the Rules of the Supreme Court. See New Hampshire Supreme Court Rule 37(20).

Pursuant to New Hampshire Supreme Court Rule 37(22), enclosed is a complete copy of Rule 37 as well as a copy of Rule 37A entitled Rules and Procedures of Attorney Discipline System.

Sincerely,
Thomas V. Trevethick
Deputy General Counsel

(Emphasis in original.)

6. Ms. Boehm did not respond to Mr. Trevethick's December 11, 2008, letter.
7. In a letter to Ms. Boehm dated January 13, 2009, James L. DeHart, General Counsel, wrote:

Dear Ms. Boehm:

On December 11, 2008, you were mailed a copy of a complaint filed by Kimberly S. Fredrickson. We have not received your reply, which was due on January 12, 2009. Please give this matter your **immediate** attention.

If you fail to immediately file your answer to the complaint this Office will recommend that the matter be referred to Disciplinary Counsel for the issuance of a Notice of Charges for a public hearing on the issue of your failure to cooperate. See Rule 8.1(b) of the Rules of Professional Conduct. In the event a Notice of Charges is issued, the file will become public.

A copy of my letter to you dated December 11, 2008 is enclosed.

Sincerely,
James L. DeHart
General Counsel

(Emphasis in original.)

8. It is undisputed that the ADO mailed the December 11 and January 13 letters to Ms. Boehm's correct address (Boehm & Wright, PLLC, 1 Capitol Street, 2nd Floor, Concord, New Hampshire 03301).
9. Ms. Boehm and her staff would testify that she did not receive either of the letters, described above, and that for a number of weeks following the relocation of the law office, they had experienced other problems receiving mail.
10. In a letter to Ms. Boehm dated February 13, 2009, Martha Van Oot, Chair of the Complaint Screening Committee informed Ms. Boehm that it was referring Ms. Frederickson's complaint to Disciplinary Counsel "for further action on both the failure to respond to a disciplinary authority and on the merits of the complaint." Ms. Boehm would testify that she received this letter.

11. On March 6, 2009, Mr. Trevethick spoke with Ms. Boehm on the telephone. On that date, and per Ms. Boehm's request, Mr. Trevethick forwarded to Ms. Boehm via telefax a copy of the letter dated December 11, 2008 (from Mr. Trevethick), and the letter dated January 13, 2009 (from Mr. DeHart). Ms. Boehm would testify that this was the first time she saw either letter.
12. Except as set forth in Ms. Boehm's Answer to the Notice of Charges in this matter, to date, Ms. Boehm has never formally responded to the ADO's letters of December 11, 2008, or January 13, 2009.

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 as follows:

Rule 8.1(b): Failure to Cooperate

13. Ms. Boehm received copies of the December 11, 2008 and January 13, 2009 letters from the ADO correspondence on March 6, 2009. Both of those letters informed Ms. Boehm that pursuant to N.H. Supreme Court Rule 37A(II)(a)(5)(C), Ms. Boehm was obligated to respond.
14. Not until July 13, 2009, did Ms. Boehm respond to the ADO's correspondence.
15. Ms. Boehm's failure to respond to the ADO's correspondence represents a knowing failure to respond to a lawful demand for information from a disciplinary authority.
16. Ms. Boehm's failure to respond to the ADO's December 11, 2008, and January 13, 2009, letters constitute a violation of N.H. R. Prof. Conduct 8.1(b).

Rule 8.4(a): General Rule

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

III. ANALYSIS

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. Conner's Case*, 158 N.H. 299, 303 (2009). "The sanction must take into account the severity of the misconduct." *Coffey's Case*, 152 N.H. 503, 513 (2005).

Having found the foregoing facts and Rule violations by clear and convincing evidence, we now turn to a determination of the appropriate sanction. Although New Hampshire has not adopted the American Bar Association's *Standards for Imposing Sanctions* (2002), ("*Standards*"), we look to them for guidance. The *Standards* list the following factors for consideration when imposing sanctions: (a) the duty violated; (b) the lawyer's mental state; (c) the actual or potential injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors. *Standards, supra*, § 3.0. In applying these factors, we first categorize the respondent's misconduct and then identify the appropriate sanction. *Coddington's Case*, 155 N.H. at 66 (2007). We then consider the effect of any aggravating or mitigating factors in reaching the ultimate sanction. *Id.*

The first three parts of the analysis create the framework for characterizing the misconduct and determining the baseline sanction. *See Conner's Case*, 158 N.H. at 303. Once the baseline sanction is determined, the Court then looks to the fourth and final part of the analysis: the existence of aggravating and mitigating factors and whether they affect the baseline sanction.

See id.

Ms. Boehm testified before the Hearing Panel and herself characterized her conduct and made significant admissions.

Ms. Boehm testified that she is currently practicing law with her partner, Shayna M. Wright, Esq., at the firm of Boehm and Wright in Concord. *Tr. at 26.* Ms. Boehm graduated from Franklin Pierce Law School in 1989, became a member of the New Hampshire Bar in 1990, and began practicing law in 1991. *Tr. at 27.* Ms. Boehm described her law practice as “mostly divorce litigation,” with a current caseload of 16 divorce cases, ten Guardian ad Litem cases, and a few juvenile and bankruptcy matters. *Tr. at 29.*

Regarding the matter at issue, Ms. Boehm testified that she received the letter dated February 13, 2009, from the Complaint Screening Committee on March 6, 2009, and that is when she first contacted the ADO. *Tr. at 30-31 and 45-46.* She stated that she never received the correspondence dated December 11, 2008, from Mr. Trevethick, or that dated January 13, 2009, from Mr. DeHart. *Tr. at 34 and 45.* Ms. Boehm described the substantial problems her new law office experienced with mail not being forwarded from her former office. *Tr. at 31-33.* She admitted she was aware of the Frederickson complaint, “early on,” but claimed that “the first time [she] learned that the complaint needed a response was when [she] contacted the ADO in March” *Tr. at 33-34.* Nevertheless, following her March 6, 2009, contact with Disciplinary Counsel she took no action until she filed her response to the Frederickson complaint on July 13, 2009. *Tr. at 30.* As to her failure to respond promptly Ms. Boehm stated: “I understand that was wrong.” *Tr. at 35.*

Ms. Boehm explained that as a result of a prior disciplinary complaint in the *Marble*

matter (Public Censure with Mandatory Diversion for violating Rules 1.4, 8.1(b), and 8.4(a), July 21, 2008), and an audit of their practice by Arthur G. Greene, Esq. under the sanction in that matter, she and Ms. Wright had already begun to make changes in their practice at their new firm to address Ms. Boehm's law practice management deficiencies. *Tr. at 35-36*. She stated: "When we moved to the new location, I looked at it as a fresh start. We were taking our staff, but we were restructuring it differently. I was coming off of the heels of the Marble matter, which was part of a diversion, and also knew that we were being audited by Mr. Greene as part of the law firm practices, as part of the diversion contract." *Tr. at 36*. Improvements included each attorney having a paralegal dedicated solely to the attorney, a telephone and correspondence log, and a new case file system. *Tr. at 36-39*. On cross-examination, Ms. Boehm stated that on December 10, 2008, she received Mr. Greene's audit of her law practice and recommended changes resulting from the *Marble* matter, and she reported changes she implemented to Disciplinary Counsel in correspondence dated March 30, 2009. *Tr. at 47-48 and 54-56*. She admitted that the Committee had granted her an extension to file her report on changes made pursuant to Mr. Greene's recommendations to January 5, 2009. *Tr. at 57-58*. Ms. Boehm failed to meet this extended deadline, and only after three letters from Disciplinary Counsel to remind her about her need to report on the changes, and a motion to show cause, did she send the March 30 letter to Disciplinary Counsel. *Tr. at 57-59*. Hearing Panel Report, *Tab 15, pp. 5-7*.

Under the first prong of the analysis, it is uncontested that Ms. Boehm failed to cooperate with the ADO for an extended period of time. Although Ms. Boehm admits that she received notice of the pending charges and her obligation to respond at least by March 6, 2009, it was not until July 13, 2009, that Ms. Boehm filed an answer to the charges.

The second prong of the three-part test requires analysis of Ms. Boehm's mental state. Ms. Boehm has stipulated that her "failure to respond" the ADO's correspondence represents a knowing failure to respond to a lawful demand for information from a disciplinary authority. *Tab 11, Stipulation, par. 17.*

Ms. Boehm's mental state is relevant in this matter. As stated in the *Stipulation as to Facts and Violations*, Ms. Boehm's failure to respond to the ADO "represents a **knowing** failure to respond to a lawful demand for information from a disciplinary authority." (emphasis added). She did not claim any mental or other disability which may have contributed to her misconduct, or the existence of an innocent mistake causing her failure to respond, other than the issues with her mail. Based on the evidence of record and the testimony and arguments made at the Hearing, it is clear that Ms. Boehm has a clear and continuing issue with respect to responding to difficult matters or clients.

In *Clark's Case*, 136 N.H. 497, 498 (1992), the New Hampshire Supreme Court stated:

"The importance of ensuring cooperation with the committee has been expressed in clear terms by the Washington Supreme Court: 'Internal investigation and self-discipline are at the very heart of a profession, as distinguished from a trade or business. The Bar Association's investigation of a complaint is an integral part of the machinery for handling charges regarding the ethics and conduct of the attorneys admitted to practice before this court. Public confidence in the legal profession, and the deterrence of misconduct, require prompt, complete investigations. The process of investigating complaints depends to a great extent upon an individual attorney's cooperation. Without that cooperation, the Bar Association is deprived of information necessary to determine whether the lawyer should continue to be certified to the public as fit. Obviously, unless attorneys cooperate in the process, the system fails and public confidence in the legal profession is undermined. If the members of our profession do not take the process of internal discipline seriously, we cannot expect the public to do so and the very basis of our professionalism erodes.'"

(quoting *Clark*, 99 Wash.2d 702, 707-08, 663 P.2d 1339, 1341-42 (1983)).

Here, it is undisputed that Ms. Boehm knowingly failed and refused to cooperate with the disciplinary process and undermined public confidence in the legal profession.

The third prong requires analysis of the actual or potential injury caused by Ms. Boehm's misconduct. Here, Ms. Boehm's misconduct caused harm to the reputation and integrity of the legal profession. Ms. Boehm's effort to evade and ignore the regulatory process interfered with the administration of justice and placed herself above the law.

In determining the baseline sanction, the standards provide guidance. Section 7.0 of the *Standards*, entitled: *Violations of Duties Owed as a Professional* provides in Section 7.2:

Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty as a professional and causes injury or potential injury to a client, the public, or the legal system.

We find that the appropriate baseline sanction in this matter is a suspension from the practice of law. Ms. Boehm asserts that she evidenced genuine remorse in mitigation. However, as detailed above, the Hearing Panel found that Ms. Boehm's repeated assertion that she was justified in failing to respond to the ADO because: the Office did not continually repeat her obligation to respond after March 6, 2009; that she felt that the complaint against her might ultimately be dismissed, and that any response she made might be used against her client in the underlying action, did not evidence genuine remorse. Hearing Panel Report, *Tab 15 pp. 10-11*. There are no mitigating factors.

On the other side of the coin, it is undisputed that Ms. Boehm failed to cooperate with the disciplinary process. She testified that she knew of the need to respond to the Frederickson complaint by March 6, 2009, but failed to do so until July 13, 2009.

In addition, we find that Ms. Boehm's lengthy and recent disciplinary record provides

serious aggravating factors. Ms. Boehm has received a public censure, three reprimands and three warnings since 1995. The record shows the following Committee actions: (1) Reprimand for violating Rules 1.15(c) and 8.4(a) , October 31, 1995; (2) Reprimand for violating Rules 1.1(a), 1.1(b)(5), 1.3(a), 1.4(a), and 8.4(a), June 8, 1998; (3) Warning for issue relating to unjustified seizure of funds for a client, June 29, 1998; (4) Reprimand for violating Rules 1.1(b)(5), 1.1(c)(4), 1.3(a), 1.4(a) and 8.4(a), October 26, 1999; (5) Warning for failure to respond or a delay in responding to a client, May 30, 2000; (6) Warning related to keeping clients informed about the status of their cases, October 2, 2000, and, (7) Public Censure with Mandatory Diversion for violating Rules 1.4, 8.1(b), and 8.4(a) , July 21, 2008. These violations evidence a lengthy pattern of professional misconduct, with many related to the failure to respond to correspondence, pleadings and complaints. In December 2008, as part of the Mandatory Diversion, implemented to improve her law practice, she failed to comply with provisions of the Mandatory Diversion until she had received three letters form Disciplinary Counsel and a Motion to Show Cause. *Hearing Panel Report, Tab 15 at 12.*

The aggravating factors and the lack of any mitigating factors suggest a lengthy suspension from the practice of law is the appropriate sanction. Based on the seriousness of the offense, the knowing violation of the Rules of Professional Conduct, the repeated and recent violations of the Rules as evidenced by her lengthy disciplinary record, the Committee determined that a six month suspension is appropriate. However, in yet another effort to assist Ms. Boehm in rehabilitating herself and establishing a professional law practice, the Committee suspends three months of the suspension for a period of two years contingent upon successful compliance with the following conditions.

The Committee adopts and imposes the following conditions to the suspension as proposed by

Ms. Boehm and adopted by the Hearing Panel:

1. Ms. Boehm shall comply with the terms of this Sanction Order, including the monitoring of her practice of law, as described herein.
 - a) Shayna M. Wright, Esq., a partner of Boehm & Wright, PLLC (Ms. Boehm's law firm) and a signatory to the agreement, shall monitor Ms. Boehm's compliance with the terms and conditions of this Sanction Order and also shall report to Disciplinary Counsel regarding Ms. Boehm's compliance as provided in the following subparagraph, below.
 - b) Ms. Wright shall report to the ADO on a monthly basis whether there are issues or concerns regarding Ms. Boehm's diligence and/or communication with her clients in accordance with the terms of this Sanction Order.
2. Response Logs. The following terms and conditions apply to specific aspects of the Respondent's practice of law:
 - a) Administrative Assistance. Boehm & Wright (Ms. Boehm's law office) will assign a full-time secretary to provide Ms. Boehm with administrative support to effect the specific terms of the Sanction Order. The secretary assigned to support Ms. Boehm may also support other attorneys and paralegals in the office, depending upon workload and availability.
 - b) Incoming Calls: All incoming calls for Ms. Boehm will be routed first to the secretary assigned to support Ms. Boehm (or her/his designated substitute) who will log in the calls by caller name, date and time. If Ms. Boehm is not available, the caller will be asked if he/she prefers to leave a message with the secretary or to be put into Ms. Boehm's voicemail. If the caller selects voicemail, Ms. Boehm's secretary will make a notation to that effect on the log. If the caller elects to leave a message, a copy of that message will be attached to or incorporated into the log, including the nature of any response sought by the caller and any applicable deadline for the response.
 - c) Incoming Client Correspondence: All incoming client correspondence to Ms. Boehm (whether by mail or fax) will be logged in by Ms. Boehm's secretary (or her/his designated substitute) by client name with appropriate file references. The log entries will include the name of the client, the date of the correspondence, a brief description of the contents of the correspondence, the nature of any response sought by the writer and any applicable deadline for the response.
 - d) Incoming E-Mail: Ms. Boehm shall set up her e-mail account so that the secretary providing administrative assistance pursuant to this Sanction Order, has access to such e-mail. All incoming e-mails for Ms. Boehm related to her representation of clients will be reviewed by the secretary assigned to support Ms. Boehm (or her/his

designated substitute) who will log in the e-mails by author name, date and time. If the author of the email requests a response, a notation will be incorporated into the log, including the nature of any response sought by the author and any applicable deadline for the response.

- e) Incoming Pleadings, Court Orders and Other Legal System Correspondence. All incoming pleadings, court orders or other legal system correspondence related to Ms. Boehm's cases or other active matters, including all pleadings filed by opposing counsel and all discovery requests, will be logged in by Ms. Boehm's secretary (or her/his designated substitute) by client/matter name with appropriate file references. The log entries will include the name of the client or matter, the date of the correspondence, a brief description of the contents of the correspondence, the nature of any response required by such correspondence, and any applicable deadline for the response. Copies of the pleadings or correspondence shall be provided to the respective client.
 - f) Emergencies. If any incoming communication is of an emergency nature, the secretary providing assistance to Ms. Boehm (or his/her designee) pursuant to the Sanction Order shall notify Ms. Boehm and Ms. Wright as soon as possible, and log in the communication, as outlined above. The oversight tasks for which Ms. Wright is responsible, pursuant to the following paragraph, shall then occur immediately.
 - g) Review of Logs: Responses. The secretary providing assistance to Ms. Boehm pursuant to the Sanction Order shall review the logs once a day with Ms. Boehm. Any response deadlines shall be placed in the logs and on Ms. Boehm's electronic calendar.
 - h) Telephonic Responses. If the form of the response is a return call, and the caller cannot be reached or Ms. Boehm or her staff leave a message, a second or third attempt must be made, followed by an e-mail or letter to the caller, acknowledging their call, the attempts to reach the caller and inviting a phone call, e-mail letter or meeting to discuss the communication. In such instances, the log should not be marked to signify a completed response until the procedures described in this subparagraph are fulfilled.
3. Oversight - Attorney Wright. On at least a weekly basis, Ms. Wright will review the correspondence, telephone, e-mail and pleading logs:
- a) Ms. Wright will confer with Ms. Boehm's secretary (or his/her designee) on not less than a weekly basis to ensure that the procedures in Paragraph 2 are implemented and being followed.
 - b) If any call, e-mail, correspondence or pleadings do not involve matters on which Ms. Boehm is working, Ms. Wright will inquire further about the identity of the

caller, writer or source of the pleading, and the reason for the call, pleading, e-mail or correspondence, and will follow up with Ms. Boehm. If Ms. Wright determines that a further response to the caller, pleadings author or writer is appropriate, she will discuss this matter with Ms. Boehm, including the deadline for the response. Ms. Wright will be copied on any response Ms. Boehm sends or provides to the individual, and the log will be marked appropriately, identifying the date of the response and confirming that the response sought by the caller, pleadings author or writer was addressed appropriately.

- c) If the logged-in individuals do appear in the firm's active case files, Ms. Wright will determine if a further response to the individual is appropriate. If she determines that a further response is appropriate, she will discuss the matter with Ms. Boehm, including the deadline for the response. Ms. Wright will be copied on any response Ms. Boehm sends or provides to the individual and the log will be marked appropriately, identifying the date of the response and confirming that the response sought by the caller or writer was addressed appropriately.
4. CLE. During the first year described in this Sanction Order, Ms. Boehm shall also obtain a minimum of 6.5 hours of continuing legal education credit ("CLE") in CLE courses focusing on law practice management, including communications skills. Ms. Boehm shall maintain a record of her attendance and participation in such courses, including proof of registration, a description of each program and copies of materials. Ms. Boehm shall provide proof sufficient to demonstrate compliance with this paragraph.
5. If, pursuant to Paragraph 1, Ms. Wright reports issues or concerns in accordance with this Sanction Order, Disciplinary Counsel shall review that report and shall determine whether, in her opinion, the reported event is a material violation of the terms of this Sanction Order. In making that determination, Disciplinary Counsel may conduct such further investigation, if any, that she deems appropriate. Ms. Boehm shall have the right to provide Disciplinary Counsel with any additional information regarding the reported event.
6. If Disciplinary Counsel concludes that, in her opinion, the reported event is a material violation, she may file a motion with the Committee requesting that the Committee impose the stayed three month suspension. Ms. Boehm shall have the right to respond in writing to Disciplinary Counsel's motion, to request an evidentiary hearing thereon, and to request oral Argument before the Committee. The Committee shall rule upon any request for an evidentiary hearing and for oral argument. Following an evidentiary hearing (if requested), or the denial of a request for such hearing, the Committee shall determine whether the motion requesting imposition of the three month suspension should be granted or denied. Unless waived, oral arguments will be conducted to allow Disciplinary Counsel and Ms. Boehm ten (10) minutes to address the issue of imposition of the stayed suspension. The Committee's decision shall be final. Disciplinary Counsel shall have the burden of proof by a preponderance of the evidence to establish that imposition of the

stayed suspension is warranted.

7. In any proceeding under this Sanction Order to impose the stayed three month suspension based upon information reported by Ms. Wright, the burden of proof that Disciplinary Counsel must meet is as follows: Disciplinary Counsel must establish by a preponderance of the evidence that Ms. Boehm's reported conduct is either a material breach of the terms of this Sanction Order or constitutes a violation of the N.H. Rules of Professional Conduct.
8. If the ADO receives a complaint against Ms. Boehm that arises out of events that predate adoption of this Sanction Order by the Committee, that complaint will be processed in the ordinary course of business. Any finding of a violation of the Rules of Professional Conduct that may result from that complaint will not be a basis for imposition of the three month suspension in this case.
9. If the ADO receives a complaint against Ms. Boehm during the period of the two year stay that arises out of events that post date adoption of this Sanction Order by the Committee and are within the period of the two year stay, that complaint will be processed by the ADO on an expedited basis. Any final adjudication of a violation of the Rules of Professional Conduct that may result from that complaint may provide a basis for a request by Disciplinary Counsel that the Committee impose the stayed three month suspension in this case. If Disciplinary Counsel makes such a request, Ms. Boehm shall be entitled to an evidentiary hearing and review by the Committee.
10. At the conclusion of the two year period described in this Sanction Order, the three month suspension shall be permanently stayed provided that there are no complaints or motions pending pursuant to paragraphs 3 or 11 of this Sanction Order. If such complaints or motions are filed during such period, they can provide a basis for seeking imposition of the stayed three month suspension even if the proceedings on such complaints or motions are concluded after expiration of the one year period of the stay. Any request for imposition of the stayed suspension that is based upon a complaint under paragraph 9 hereof must be initiated within 30 days of final disposition of that complaint.

IV. SANCTION

Having made the aforementioned findings and rulings, the Committee concludes that the appropriate discipline in this matter is that Ms. Boehm be suspended from the practice of law for a period of six months with three months suspended for a period of two years with the conditions stated above, to begin as of April 1, 2010. Should the Committee find, pursuant to the procedure described above, that Ms. Boehm has not abided by these conditions, the remaining three months

of suspension shall be immediately imposed. This sanction is in accord with the purposes of attorney discipline as described by the New Hampshire Supreme Court *See, e.g., Feld's Case*, 149 N.H. 19, 28 (2002). This sanction is also in accord with the ABA Center for Professional Responsibility, *Standards for Imposing Lawyer Sanctions* (2002). *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).

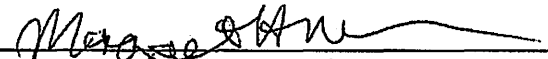
V. COSTS

The parties have stipulated to, and the Committee accepts Ms. Boehm's agreement to pay the expenses incurred by the Committee in the investigation and prosecution of this matter.

VI. CONCLUSION

In view of the seriousness of Ms. Boehm's misconduct, and her prior recent and lengthy disciplinary record, 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 only through Ms. Boehm's suspension with conditions. Accordingly, the Committee hereby suspends Ms. Boehm from the practice of law for six months with three months stayed for a period of two years contingent on her fulfillment of the conditions stated above, with the three month suspension to begin as of April 1, 2010. Ms. Boehm is hereby assessed all costs associated with the investigation and prosecution of this matter. N.H. Sup. Ct. R. 37(19).

February 3, 2010


Margaret H. Nelson, Chair

Distribution:

Landya B. McCafferty, Disciplinary Counsel
Richard Y. Uchida, Esquire
Lenora E. Boehm, Esquire
Kimberly Frederickson
File

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. LD-2010-0007, In the Matter of Lenora E. Boehm, the court on September 17, 2010, issued the following order:

Lenora E. Boehm's expedited motion for reinstatement is granted. Lenora E. Boehm is reinstated to the practice of law in New Hampshire, effective immediately.

Dalianis, Duggan, Hicks and Conboy, JJ., concurred.

**Eileen Fox,
Clerk**

Distribution:

Jennifer B. Sargent, Esquire
Margaret H. Nelson, Chair
Lenora E. Boehm, Esquire
Richard Y. Uchida, Esquire
NH Bar Association
File