

New Hampshire Supreme Court  
**Professional Conduct Committee**

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*Stanley M. Hawthorne*

*adv.*

*Daniel A. Bishop*

*#00-N-145*

**Public Censure**

On October 19, 2004, the Professional Conduct Committee considered the above-referenced matter. The matter was presented to the committee pursuant to a Stipulation between Disciplinary Counsel, Landya B. McCafferty, and Respondent Stanley M. Hawthorne.

Members present included Margaret H. Nelson, Chair, Richard B. McNamara, Reporter, David N. Cole, Thomas P. Connair, Alan J. Cronheim, and David N. Page. Those absent included: Benette Pizzimenti, Toni M. Gray, Morgan A. Hollis, James R. Martin, and Stephen B. Stepanek.

The Professional Conduct Committee thoroughly reviewed the record in this matter. Having reviewed the record, including the Notice of Charges, Answer, Respondent's Motion to Dismiss, Respondent's Amended Motion to Dismiss, and Respondent's Motion in Limine, Hearing Panel Report, and Transcript of September 8, 2004 hearing, the Professional Conduct Committee makes factual findings and rulings as detailed below.

**I. FACTUAL FINDINGS**

The Professional Conduct Committee has determined that the record supports the following factual findings by clear and convincing evidence:

1. In a sworn letter of complaint dated October 16, 2000, and in supplemental letters dated November 20 and November 21, 2000, Daniel A. Bishop made allegations of professional misconduct against Stanley M. Hawthorne.
2. On June 20, 2000, Mr. Bishop received a summons from the federal government with respect to outstanding student loan obligations. The federal government filed a complaint in the United States District Court for the District of New Hampshire against Mr. Bishop in an effort to collect arrearages on Mr. Bishop's federally guaranteed student loans. *See United State of America v. Daniel A. Bishop* (docket # C-00-278-B).
3. The Summons was dated June 13, 2000. According to the summons, Mr. Bishop had a short time-frame (approximately 20 days from the date of service of the summons) within which to respond to the summons.
4. Before speaking with Mr. Hawthorne, Mr. Bishop had spoken with several attorneys who specialized in bankruptcy about whether his student loans were dischargeable. Each of these attorneys advised Mr. Bishop that his student loans were not dischargeable in bankruptcy.
5. On June 28, 2000, Mr. Bishop telephoned Mr. Hawthorne's office. Mr. Bishop explained to Mr. Hawthorne both the issue with respect to the student loans and the time-sensitive nature of his situation. Mr. Hawthorne assured Mr. Bishop that his loans were dischargeable in bankruptcy. Mr. Bishop decided to retain Mr. Hawthorne's services. Mr. Hawthorne agreed to meet with Mr. Bishop at Mr. Hawthorne's office on Saturday, July 1, 2000.
6. On July 1, 2000, Mr. Bishop and Mr. Hawthorne met at Mr. Hawthorne's office. Mr. Hawthorne again assured Mr. Bishop that his student loans were dischargeable in bankruptcy. In this meeting, Mr. Hawthorn failed to explain the legal and practical aspects of student loan dischargeability to Mr. Bishop. Mr. Bishop gave Mr. Hawthorne \$500.00 for his fee. Mr. Hawthorne gave Mr. Bishop a bankruptcy questionnaire to take home.
7. Mr. Hawthorne used Mr. Bishop's questionnaire to prepare a bankruptcy petition. Mr. Hawthorne did not go over the questionnaire or the petition with Mr. Bishop.
8. On July 10, 2000, Mr. Bishop sent the following e-mail message to Mr. Hawthorne's website:

Stan I have tried several times, and several ways to contact you. I have gotten no response. It is very important to me, and to our professional relationship that you contact me

immediately and update me on the filing of our contracted documents.

9. In response, on that same date Mr. Hawthorne telephoned Mr. Bishop. Mr. Hawthorne assured Mr. Bishop that the necessary action had been taken, and that he should meet Mr. Hawthorne toward the end of the week to sign the bankruptcy petition. After the telephone conversation, Mr. Hawthorne wrote Mr. Bishop the following e-mail message:

Dan: Sorry for the non-communication. The issue should be moot after our phone con[versation] a minute ago. Talk to Mr. Hawthorne later this week. Regards, Stan.

10. On Friday, July 24, 2000, Mr. Bishop sent an e-mail message to Mr. Hawthorne's website stating: "Thought I would hear from you last week. Could you give me a call and let me know what the next step is in the legal process. Thanks."
11. On July 25, 2000, Mr. Hawthorne sent Mr. Bishop an e-mail. That e-mail stated: "Ok, will call soon."
12. On September 24, 2000, Mr. Bishop sent Mr. Hawthorne an e-mail asking for information on his case.
13. On September 25, 2000, Mr. Bishop contacted the U.S. Attorney's Office regarding his case. Someone in that office informed him that a trial date was set for the middle of 2001.
14. On or about October 2, 2000, Mr. Bishop again telephoned Mr. Hawthorne. Mr. Hawthorne answered the telephone. Mr. Bishop explained his frustration with Mr. Hawthorne's evasiveness and non-communication. Mr. Bishop also expressed frustration with the fact that Mr. Hawthorne possessed all of his documents. Mr. Hawthorne suggested a meeting to discuss the case. Mr. Hawthorne agreed to meet Mr. Bishop at the McDonald's restaurant in Alton on October 3, 2000.
15. On October 3, 2000, Mr. Hawthorne telephoned Mr. Bishop and spoke with him. Mr. Hawthorne agreed to meet Mr. Bishop at his home on October 5, 2000 at 4:00 p.m. Mr. Hawthorne did not show up for that appointment.
16. On October 7, 2000, Mr. Bishop sent Mr. Hawthorne a termination letter by certified mail. In that letter, Mr. Bishop demanded his file and a full refund of the retainer. Mr. Bishop also forwarded Mr. Hawthorne an e-mail containing the same information.

17. On that same date, Mr. Hawthorne responded to Mr. Bishop's e-mail, stating that Mr. Hawthorne would return his file "immediately," send him and itemized billing of Mr. Hawthorne's time, return any refund that as "due," and "file a withdrawal" from the federal case.
18. Despite Mr. Bishop's termination letter dated October 6, 2000, Mr. Hawthorne did not withdraw from representing him in the federal case. Mr. Hawthorne also failed to return any portion of the unearned fee or to provide Mr. Bishop with an itemized billing of your time.
19. By letter dated December 4, 2000, David L. Broderick, the Assistant U.S. Attorney who was prosecuting Mr. Bishop in the federal matter, wrote to Mr. Hawthorne:

Mr. Bishop has called this office several times and, of course, since his is represented, I did not communicate with him. Today, Mr. Bishop left a message with Joan Hederman, my paralegal, stating that you no longer represent him. Please let me know if you continue to represent Mr. Bishop and, if not, please forward a copy of your withdrawal. Class me if you have any questions.

20. On January 27, 2001, Mr. Bishop filed a pro se appearance in the federal matter.
21. As of May 5, 2001, the date on which a Consent Order was entered in the federal case, Mr. Hawthorne was still listed as attorney of record for Mr. Bishop in the federal matter.

## II. RULINGS OF LAW

The above-listed facts having been found by clear and convincing evidence, the Professional Conduct Committee concludes that there is clear and convincing evidence Stanley M. Hawthorne has violated the following Rules of Professional Conduct:

1. There exists clear and convincing evidence that Mr. Hawthorne's advice with respect to the dischargeability of Mr. Bishop's student loans was not competent and constitutes a violation of the N.H. R. Prof. Conduct 1.1(a).
2. There exists clear and convincing evidence that Mr. Hawthorne did not keep Mr. Bishop reasonably informed regarding the status of Mr. Bishop's case and promptly comply with or respond to reasonable requests for information by Mr. Bishop in violation of N.H. R. Prof. Conduct 1.4(a).

3. There exists clear and convincing evidence that Mr. Hawthorne did not adequately explain the legal and practical aspects of the case to Mr. Bishop in violation of N.H. R. Prof. Conduct 1.4(b).
4. There exists clear and convincing evidence that Mr. Hawthorne did not file a withdrawal in the student loan case in federal court as required by N.H. R. Prof. Conduct 1.16(a)(3).
5. There exists clear and convincing evidence that Mr. Hawthorne did not return Mr. Bishop's file upon Mr. Bishop's request as required by N.H. R. Prof. Conduct 1.16(d).
6. Because of the aforementioned rules violations, there necessarily exists clear and convincing evidence that Mr. Hawthorne violated N.H. R. Prof. Conduct 8.4(a).

### 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 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 (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 Courts has considered them when imposing sanctions).

### IV. CONCLUSION

For the above reasons, the Professional Conduct Committee Publicly Censures Stanley M. Hawthorne for violating N.H. Prof. Conduct Rules 1.1(a), 1.4(a), 1.4(b), 1.16(a)(3), 1.16(d), and 8.4(a).

Date: 11/18/04

By: Margaret H. Nelson  
Margaret H. Nelson  
Chair

cc: Disciplinary Counsel  
Ruth Hall, Esquire (Respondent's Counsel)  
File