

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**ORDER**

**LD-2009-0010, In the Matter of Nancy S. Tierney**

Having considered the parties' briefs and oral arguments and the record submitted on appeal, the court concludes that a formal written opinion is not necessary for the disposition of this appeal. On October 29, 2009, the Professional Conduct Committee (PCC) filed a petition for one-year suspension of Attorney Nancy S. Tierney, hereinafter referred to as the respondent. The petition requested that the respondent be suspended from the practice of law in New Hampshire for one year, and that the suspension be stayed for two years. On December 2, 2009, the respondent filed an answer to the petition, stating that she accepted the PCC's findings, rulings and recommendations and that she assented to the requested sanction. On January 20, 2010, the court issued an order asking the parties to brief the issue of the appropriate sanction to be imposed in this case. The court received the PCC's brief on February 18, 2010, and the respondent's brief on March 23, 2010. The court heard oral argument in this case on May 13, 2010.

In the petition, the PCC alleged that the respondent violated the following Rules of Professional Conduct:

- (1) Rule 1.1(a)-(c) by representing her client in federal court despite her lack of competence in federal court matters;
- (2) Rule 1.3(a), (b) by failing to file timely objections and pleadings in compliance with federal rules and failing to pursue other remedies in civil proceedings to her client's detriment;
- (3) Rule 1.4(a)-(c) by failing to forward important documents to her client or otherwise communicate with him in writing, despite his request; and
- (4) Rule 8.4(a) by violating the Rules of Professional Conduct.

The court accepts the PCC's findings and rulings as to the rules violations.

The PCC determined that the goals of protecting the public, including the respondent's current clients, preventing similar conduct in the future, and preserving the integrity of the profession would be best served by suspending

the respondent for one year from the practice of law in New Hampshire, and staying this suspension for two years subject to conditions that include provisions for mentoring. Having considered the petition, the respondent's answer, the parties' briefs and oral arguments, and the record submitted on appeal, the court accepts the PCC's recommendation as to the sanction that should be imposed in this case.

THEREFORE, the court orders that Attorney Nancy S. Tierney be suspended from the practice of law in New Hampshire for a period of one year; imposition of this suspension is stayed for a period of two years subject to Attorney Tierney's compliance with the conditions set forth in the PCC's recommendation and the following additional conditions:

- (1) Attorney Tierney shall provide her clients with copies of the mentoring order and obtain their consent to Attorney Tierney's consultation with and provision of information to the mentor, as may be required to comply with the terms of mentoring.
- (2) Attorney Tierney shall consult with the mentor before appearing as counsel in any litigation to determine whether she has sufficient experience in the applicable area of law to provide competent representation as well as the necessary, current legal resource materials, including applicable procedural rules and whether she should consult with more experienced counsel to ensure that she understands the applicable law.
- (3) In all litigated cases in which Attorney Tierney has entered an appearance, she shall consult with the mentor regarding substantive and procedural issues associated with any dispositive motions or memoranda filed by another party or to be filed by Attorney Tierney, as well as any related court orders. The mentor shall periodically review and comment on such pleadings, including those prepared in draft by Attorney Tierney before filing, and Attorney Tierney shall cooperate with the mentor in this regard.

The court agrees with the process by which the two-year stay of Attorney Tierney's one-year suspension may be lifted as set forth in paragraph eight of the PCC's September 9, 2009 order. If the PCC imposes any portion of Attorney Tierney's one-year suspension, it shall notify the court. At the conclusion of the two-year stay, either party may request that the stay of the remaining suspension be made permanent.

Attorney Tierney is hereby assessed all expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter. See Rule 37(19).

Broderick, C.J., and Dalianis, Duggan, Hicks and Conboy, JJ., concurred.

DATE: May 24, 2010

ATTEST:

  
**Eileen Fox, Clerk**

Distribution:

James L. Kruse, Esquire  
Nancy S. Tierney, Esquire  
Russell F. Hilliard, Esquire  
NH Bar Association  
File

**THE STATE OF NEW HAMPSHIRE  
SUPREME COURT**

In the Matter of Nancy S. Tierney, Esquire

#LD-2009-0010

**JOINT MOTION FOR PERMANENT STAY OF  
SUSPENSION**

The Professional Conduct Committee (PCC) and the Respondent, Nancy S. Tierney, respectfully move for a permanent stay of suspension, as follows:


1. By order dated May 24, 2010, this Court granted the PCC's petition to impose a one-year suspension of Ms. Tierney, with the suspension stayed for a period of two years, subject to Ms. Tierney's compliance with mentoring and other conditions set forth in the PCC's recommendation.
2. The Court provided that "at the conclusion of the two-year stay, either party may request that the stay of the remaining suspension be made permanent."
3. The two-year period of the stay has concluded and Ms. Tierney has complied with all of the conditions of the stay.

WHEREFORE, the PCC and the Respondent respectfully request that the stay of the remaining suspension be made permanent and that this matter be closed.


Respectfully submitted,

New Hampshire Supreme Court  
Professional Conduct Committee  
Attorney Discipline Office  
4 Chenell Drive, Suite 102  
Concord, New Hampshire 03301  
(603) 224-5828

DATED: ~~July~~ <sup>Aug</sup> 1, 2013

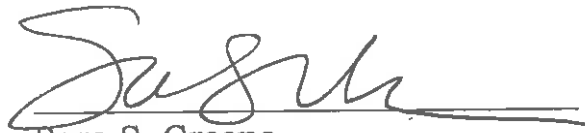
By:   
Sara S. Greene  
Disciplinary Counsel  
N.H. Bar ID # 20440

DATED: July 31, 2013

By:   
Russell F. Hilliard, Esquire  
Counsel for Nancy S. Tierney, Esquire  
N.H. Bar ID # 1159

CERTIFICATION

I, Sara S. Greene, Disciplinary Counsel of the New Hampshire Supreme Court, Professional Conduct Committee, Attorney Discipline Office, certify that a copy of the aforesaid "Joint Motion for Permanent Stay of Suspension" is being sent on this 1 day of ~~July~~ <sup>Aug</sup> 2013, to Russell F. Hilliard, Esquire, counsel for Nancy S. Tierney, at Upton & Hatfield, LLP, 159 Middle Street, Portsmouth, New Hampshire 03801, by first class mail postage prepaid.

  
Sara S. Greene  
Disciplinary Counsel

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**In Case No. LD-2009-0010, In the Matter of Nancy S. Tierney, the court on September 13, 2013, issued the following order:**

The parties' joint motion for a permanent stay of the one-year suspension of Attorney Tierney from the practice of law is granted.

Dalianis, C.J., and Hicks, Conboy, Lynn, and Bassett, JJ., concurred.

**Eileen Fox,  
Clerk**

Distribution:

James L. Kruse, Esq.

Nancy S. Tierney, Esq.

Russell F. Hilliard, Esq.

File