

New Hampshire Supreme Court  
**Professional Conduct Committee**

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***Bennett, Robert R. advs. John W. Levesque # 00-N-112***

**REPRIMAND**

On June 15, 2004, the Professional Conduct Committee reviewed the record in the above-referenced matter, including the Hearing Panel Report dated May 10, 2004 and Stipulation As To Facts and Sanction dated March 16, 2004.

Having reviewed the record, the Professional Conduct Committee concluded that the factual findings contained in the Hearing Panel Report and the Stipulation As To Facts and Sanction attached hereto and made part thereof, are supported by clear and convincing evidence.

The facts having been found by clear and convincing evidence, the Professional Conduct Committee concludes that there is clear and convincing evidence that Robert R. Bennett violated the Rules of Professional Conduct.

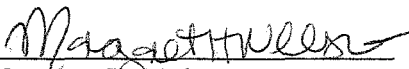
The Professional Conduct Committee concludes that the appropriate discipline in this matter is a Reprimand. This sanction is in accord with the purposes of attorney discipline as described by the New Hampshire Supreme Court See e.g., Feld's Case, 149 NH 19,28 (2002). This sanction is also in accord with 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 Court has "considered them when imposing sanctions").

For all of the above reasons, the Professional Conduct Committee Reprimands Robert R. Bennett, Esquire, for violating the following rules:

N.H. R. Prof. Conduct 1.1(a), 1.1(b)(4), 1.1(b)(5), 1.1(c)(4), 1.3(a), 1.4(a), 1.4(b), 1.4(c), 1.16(a)(3) and 8.4(a).

Robert R. Bennett, Esquire shall be entitled to appeal the findings or sanction in accordance with the Rules of the New Hampshire Supreme Court.

July 6, 2004

By:   
Margaret H. Nelson  
Chair

c.c. Landya B. McCafferty, Disciplinary Counsel  
Robert R. Bennett, Esquire  
File

NEW HAMPSHIRE SUPREME COURT  
HEARINGS COMMITTEE

ROBERT R. BENNETT

advs.

JOHN W. LEVESQUE

#00-N-112

**FINAL HEARING PANEL REPORT**

A complaint was referred to this Panel pursuant to Supreme Court Rule 37A(III)(b)(4) on March 1, 2004. The following Panel was selected:

William E. Brennan, Esquire, Chair  
Robert C. Varney, Esquire, Reporter  
Melissa Countway Guldbrandsen, Esquire  
Vahrji Manoukian  
Elaine Holden

A pre-hearing conference was scheduled for March 17, 2004. However, prior to hearing, the Respondent ROBERT R. BENNETT entered into a Stipulation with Bar Disciplinary Counsel as to facts and sanctions which provided as follows:

**Stipulation as to Facts**

1. In 2000, Mr. Levesque hired Mr. Bennett to file the Annual Accounting (hereinafter referred to as "the Accounting") for the "Trust Under the Will of Arthur A. Levesque" in Rockingham County Superior Court. Rockingham County Probate Court docketed the matter as #1966-0108. Mr. Levesque served as the Trustee.
2. At all relevant times, Mr. Levesque resided in Arkport, New York.
3. On April 5, 2000, Mr. Levesque forwarded to Mr. Bennett all of the documents necessary to file the Accounting.
4. The filing deadline for the Accounting was July 17, 2000.
5. For the time between April 19 and the July 17, 2000 filing deadline, Mr. Levesque telephoned Mr. Bennett's office 14 times and Mr. Bennett failed to return these calls.
6. As a result of Mr. Bennett's failure to communicate and to file the Accounting, Mr. Levesque was forced to file the Accounting himself, and on a last-minute basis.

7. To do this, Mr. Levesque had to file several motions on a *pro se* basis, including a motion for an extension of time, an appearance *pro se*, and a petition for an appointment of resident agent.
8. In addition, Mr. Bennett failed to file a motion to withdraw from the probate matter when so instructed by Mr. Levesque and as required by the Probate Court.
9. In a letter dated July 17, 2000, Mr. Levesque instructed Mr. Bennett to file a motion to withdraw. In that same letter, Mr. Levesque provided the clerk's name and telephone number in case Mr. Bennett had questions.
10. As of September 25, 2000, Mr. Bennett still had not filed a withdrawal.

Respondent ROBERT R. BENNETT and Bar Disciplinary Counsel also stipulated that the following rule violations could be shown by clear and convincing evidence:

- A. Mr. Bennett's failure to file the Accounting, as stipulated above, constitutes a violation of N.H. R. Prof. Conduct 1.1(a), 1.1(b)(4), 1.1(b)(5), 1.1(c)(4) and 1.3(a).
- B. Mr. Bennett's failure to communicate with Mr. Levesque between April 19 and July 17, 2000, as stipulated above, constitutes a violation of N.H. R. Prof. Conduct 1.4(a), 1.4(b) and 1.4(c).
- C. Mr. Bennett's failure to withdraw after Mr. Levesque discharged Mr. Bennett, as stipulated above, constitutes a violation of N.H. R. Prof. Conduct 1.16(a)(3).
- D. Because of the above Rule violations, there is necessarily clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(a).

The Hearing Panel having reviewed the Notice of Charges, Answer and Stipulation agrees that a Reprimand would be an appropriate sanction based upon the following factors:

- (a) Mr. Bennett has no prior record of misconduct. In 1998, however, Mr. Bennett received a warning related to his office calendaring procedures.
- (b) Mr. Bennett acted negligently in this matter, but he did not act dishonestly or with a selfish motive.
- (c) Mr. Bennett has accepted responsibility for his conduct and has expressed remorse for the distress and frustration his actions caused Mr. Levesque.
- (d) Mr. Bennett's original letter to the Committee, dated September 14, 2000, states as follows:

"On a final note, I would like to say that I have always found Mr. Levesque to be an excellent client and an honorable man. I am truly sorry for any difficulty he has experienced due to my failing to file

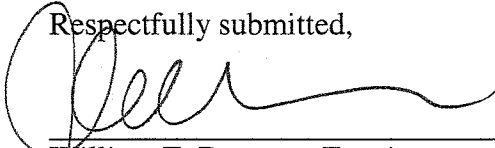
Accounting as he wished, and if there is any action I can take to rectify the situation, I would be pleased to do so.”

- (e) In Mr. Bennett’s discussions with Disciplinary Counsel about this matter, he has made full disclosure and has exhibited an extremely cooperative attitude.
- (f) During the time that Mr. Bennett neglected Mr. Levesque’s case (April-July, 2000), Mr. Bennett’s seven year old daughter was the victim of an attempted abduction from a convenience store in Epsom, New Hampshire. The police were notified but were not able to locate the assailant. Mr. Bennett offered this information in his original letter to the Committee, not by way of an excuse, but by way of explaining his inattention to details in his professional life.
- (g) Mr. Bennett is currently on inactive status for medical reasons.

The Hearing Panel therefore recommends that the Committee impose a Reprimand upon ROBERT R. BENNETT for violation of Rules 1.1(a), 1.1(b)(4), 1.1(b)(5), 1.1(c)(4), 1.3(a), 1.4(a), 1.4(b), 1.4(c), 1.16(a)(3) and 8.4(a).

Dated: 5/10, 2004

Respectfully submitted,

  
\_\_\_\_\_  
William E. Brennan, Esquire  
Chair

**THE NEW HAMPSHIRE SUPREME COURT**

**ATTORNEY DISCIPLINE OFFICE**

**ROBERT R. BENNETT**

**ADVS.**

**JOHN W. LEVESQUE**

**#00-N-112**

**STIPULATION AS TO FACTS AND SANCTION**

NOW COMES Landya B. McCafferty, Disciplinary Counsel, and Robert R. Bennett, Respondent, and respectfully submit this Stipulation as to Facts and Sanction:

**Stipulation as to Facts**

1. In 2000, Mr. Levesque hired Mr. Bennett to file the Annual Accounting (hereinafter referred to as “the Accounting”) for the “Trust Under the Will of Arthur A. Levesque” in Rockingham County Superior Court. Rockingham County Probate Court docketed the matter as #1966-0108. Mr. Levesque served as the Trustee.
2. At all relevant times, Mr. Levesque resided in Arkport, New York.
3. On April 5, 2000, Mr. Levesque forwarded to Mr. Bennett all of the documents necessary to file the Accounting.
4. The filing deadline for the Accounting was July 17, 2000.
5. For the time between April 19 and the July 17, 2000 filing deadline, Mr. Levesque telephoned Mr. Bennett’s office 14 times and Mr. Bennett failed to return these calls.
6. As a result of Mr. Bennett’s failure to communicate and to file the Accounting, Mr. Levesque was forced to file the Accounting himself, and on a last-minute basis.

7. To do this, Mr. Levesque had to file several motions on a *pro se* basis, including a motion for an extension of time, an appearance *pro se*, and a petition for an appointment of resident agent.
8. In addition, Mr. Bennett failed to file a motion to withdraw from the probate matter when so instructed by Mr. Levesque and as required by the Probate Court.
9. In a letter dated July 17, 2000, Mr. Levesque instructed Mr. Bennett to file a motion to withdraw. In that same letter, Mr. Levesque provided the clerk's name and telephone number in case Mr. Bennett had questions.
10. As of September 25, 2000, Mr. Bennett still had not filed a withdrawal.
11. Mr. Bennett's failure to file the Accounting, as stipulated above, constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.1(a), 1.1(b)(4), 1.1(b)(5), 1.1(c)(4), and 1.3(a).
12. Mr. Bennett's failure to communicate with Mr. Levesque between April 19 and July 17, 2000, as stipulated above, constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.4(a), 1.4(b), and 1.4(c).
13. Mr. Bennett's failure to withdraw after Mr. Levesque discharged Mr. Bennett, as stipulated above, constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.16(a)(3).
14. Because of the above Rule violations, there is necessarily clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(a).

**Stipulation as to Sanction: Reprimand**

15. In this Stipulation, Mr. Bennett has admitted every material allegation contained in the Notice of Charges. Additionally, Mr. Bennett has admitted each of the alleged violations of the Rules of Professional Conduct contained in the Notice of Charges.
16. Mr. Bennett has agreed to accept a Reprimand for his conduct in this matter.
17. A Reprimand is the appropriate sanction in this case for the following reasons.
  - (a) Mr. Bennett has no prior record of misconduct. In 1998, however, Mr. Bennett received a warning related to his office calendaring procedures,
  - (b) Mr. Bennett acted negligently in this matter, but he did not act dishonestly or with a selfish motive;
  - (c) Mr. Bennett has accepted responsibility for his conduct and has expressed remorse for the distress and frustration his actions caused Mr. Levesque;
  - (d) Mr. Bennett's original letter to the Committee, dated September 14, 2000, states as follows:

“On a final note, I would like to say that I have always found Mr. Levesque to be an excellent client and an honorable man. I am truly sorry for any difficulty he has experienced due to my failing to file Accounting as he wished, and if there is any action I can take to rectify the situation, I would be pleased to do so.”
  - (e) In Mr. Bennett's discussions with Disciplinary Counsel about this matter, he has made full disclosures and has exhibited an extremely cooperative attitude;
  - (f) During the time that Mr. Bennett neglected Mr. Levesque's case (April-July, 2000), Mr. Bennett's seven year old daughter was the victim of an attempted abduction from a convenience store in Epsom, New Hampshire. The police were notified but were not able to locate the assailant. Mr. Bennett offered this

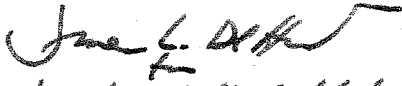
information in his original letter to the Committee, not by way of an excuse, but by way of explaining his inattention to details in his professional life;

(g) Mr. Bennett is currently on inactive status for medical reasons.

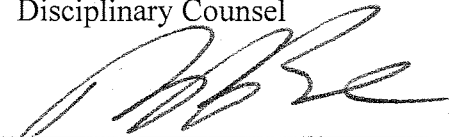
18. A Reprimand in this matter would be consistent with the ABA Center for Professional Responsibility Standards for Imposing Lawyer Sanctions § 9.0 (1991). See, e.g., Shillen's Case, No. LD-2000-004, \_\_\_ N.H. \_\_\_ (February 18, 2003) (noting that, although the Court has never formally adopted these Standards, the Court has "considered them when imposing sanctions").

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

Dated: 3/16/04

By:   
Landya B. McCafferty  
Disciplinary Counsel

Dated: 3/16/04

By:   
Robert R. Bennett  
Respondent