

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2010-0014, In the Matter of Brian F. McCaffrey

On December 2, 2010, the Attorney Discipline Office (ADO) filed a petition for immediate interim suspension of Attorney Brian F. McCaffrey from the practice of law. In the petition, the ADO states that its auditor is currently conducting an audit of Attorney McCaffrey's financial records. It alleges that the auditor's preliminary review indicates that Attorney McCaffrey's client trust account is out of trust and, furthermore, that there appears to be a pattern of misuse of client funds. The ADO requests that Attorney McCaffrey immediately be suspended from the practice of law in New Hampshire on an interim basis pending completion of the audit and the disciplinary process. Based on the information submitted by the ADO, the court finds that Attorney McCaffrey's immediate suspension from the practice of law in New Hampshire is necessary to protect the public and to preserve the integrity of the legal profession. See Rule 37(16)(d) and (f). Accordingly, it is hereby ordered:

1. Attorney Brian F. McCaffrey is immediately suspended from the practice of law in New Hampshire on a temporary basis pending further order of this court. Attorney McCaffrey may show cause on or before ten days from the date of service why the temporary suspension should be lifted. See *Reiner's Case*, 152 N.H. 163 (2005).
2. Attorney McCaffrey is enjoined from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed; and
3. A copy of this order and of the Attorney Discipline Office's filing shall be served on Attorney McCaffrey by first class mail and certified mail, return receipt requested. A copy of this order and of the Attorney Discipline Office's filing shall also be sent to Attorney Russell F. Hilliard by first class mail. A copy of this order shall also be sent to the ADO by first class mail.

Pursuant to Supreme Court Rule 37(17), Attorney Philip L. Pettis is appointed to take immediate possession of the client files and trust and other fiduciary accounts of Attorney McCaffrey, to make an inventory of such files and accounts, and to take such action as is necessary to protect the interests of Attorney McCaffrey's clients. Attorney Pettis is ordered to take the following actions:

- a. notify all employees of Attorney McCaffrey of his appointment by the court and of Attorney McCaffrey's suspension from the practice of law;
- b. notify all banks and other entities where any trust or fiduciary accounts and operating accounts of Attorney McCaffrey are held of his appointment and of Attorney McCaffrey's suspension;
- c. review any client files that Attorney McCaffrey maintained, and take such actions as he deems necessary to protect the interests of the clients;
- d. notify Attorney McCaffrey's clients by certified mail, return receipt requested, of his suspension, informing them of any action which appears to be required in the immediate future in order to preserve their legal rights and advising them that they should obtain the services of other lawyers of their choice; and
- e. make an inventory of Attorney McCaffrey's client files and trust and other fiduciary accounts, and file a copy of the inventory with the court on or before February 1, 2011, together with a report of his actions taken under this order and a recommendation as to what further actions should be taken to protect the interests of Attorney McCaffrey's clients.

The Committee on Professional Conduct shall pay the fees of Attorney Pettis, in the first instance, to be reimbursed by Attorney McCaffrey, unless otherwise ordered by the court.

This order is entered by a single justice (Dalianis, J.). See Rule 21(7).

DATE: December 3, 2010

ATTEST:


Eileen Fox, Clerk

Distribution:

Attorney Discipline Office
✓ James L. Kruse, Esquire
Brian F. McCaffrey, Esquire
Russell F. Hilliard, Esquire
Philip L. Pettis, Esquire
NH Bar Association
File