

New Hampshire Supreme Court  
**Professional Conduct Committee**  
*a committee of the attorney discipline system*

Margaret H. Nelson, Chair  
Benette Pizzimenti, Vice Chair  
Toni M. Gray, \* Vice Chair  
Susan R. Chollet\*  
David N. Cole  
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Richard D. Sager  
\* non attorney member  
Holly B. Fazzino, Administrator

MEMORANDUM

To: Julie A. Introcaso, Disciplinary Counsel  
Russell F. Hilliard, Esquire

From: Holly B. Fazzino, <sup>HF</sup> Administrator

Date: January 19, 2012

RE: *Kuhn, Sandra A. advs. Kerry Hyde # 09-063*

Enclosed please find the Professional Conduct Committee's decision in the above captioned matter.

File

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*Kuhn, Sandra A. advs. Kerry Hyde # 09-063*

**REPRIMAND**

On December 17, 2011, the Professional Conduct Committee (the "PCC") deliberated the above captioned matter. Members present included Margaret H. Nelson, Chair, Susan R. Chollet, David N. Cole, Thomas P. Connair, Alan J. Cronheim, Gerald A. Daley, Richard H. Darling, James R. Martin, Jaye L. Rancourt, and Richard D. Sager. Toni M. Gray, Vice Chair, was recused. Benette Pizzimenti was absent.

The PCC considered and granted the parties' Assented-To Motion to Permit Waiver of the Hearings Committee Process. Upon further deliberation, including consideration of the Respondent's and the Attorney Discipline Office's ("ADO's") Stipulation as to the Facts, Violations, and Recommended Sanction (the "Stipulation"), the PCC makes factual findings and rulings.

**I. FINDINGS OF FACT**

The Committee accepts the Stipulation, This establishes the following facts by clear and convincing evidence.

1. Ms. Kuhn is an attorney licensed to practice law in New Hampshire. Ms. Kuhn was admitted to practice on November 4, 1991. At all times material to this proceeding, Ms. Kuhn practiced law at Family Legal Services, P. C., 141 Airport Road, Concord, New Hampshire 03301.

2. On or about August 1, 2007, Ms. Kerry Hyde retained Family Legal Services, P.C. to represent her in a divorce matter entitled "In the Matter of Daniel

L. Hutchinson, Sr. and Kerryn J. (Hutchinson) Hyde". (Derry Family Division #2007-M-300).

3. Initially, Ms. Hyde's case was handled by Attorney Kevin Chisholm, of Family Legal Services ("FAMILYLEGAL"). Mr. Chisholm represented Ms. Hyde at the parties' Temporary Hearing on March 27, 2008.
4. On May 20, 2008, Judge Michael Ryan issued temporary orders in the case. Those orders were mailed to Mr. Chisholm on May 21, 2008. Mr. Chisholm had briefed Attorney Greg Kalpakgian, also of Family Legal Services, about the case prior to leaving for vacation.
5. Mr. Kalpakgian met with Ms. Hyde on May 23, 2008, as she had concerns about her rights and obligations under the temporary orders, a copy of which she had received from her husband. She had not yet received a copy of the orders from FAMILYLEGAL.
6. On May 24, 2008, Ms. Hyde's mother called Ms. Kuhn at Family Legal Services and asked her to assume representation of Ms. Hyde going forward, and Ms. Kuhn indicated she would review the file and speak with Ms. Hyde.
7. Ms. Kuhn filed an Appearance as counsel for Ms. Hyde with the Derry Family Division on June 2, 2008. Mr. Chisholm filed a Motion to Withdraw on behalf of the firm on or about June 5, 2008, for, among other things, nonpayment of her legal bill.
8. On June 16, 2008, counsel for Mr. Hutchinson, Attorney John Macoul, filed a Motion for Contempt with the court relating to Ms. Hyde's failure to make child support payments. Ms. Hyde's mother thereafter paid the balance of the legal bill and the firm re-appeared on or about June 24, 2008.
9. Although she would remain lead counsel, Ms. Kuhn enlisted another attorney at Family Legal Services, Mr. Anthony Santoro, to assist with Ms. Hyde's case.
10. Mr. Santoro had limited experience with family law when he began working at FAMILYLEGAL in 2007, but began working on Ms. Hyde's case as early as June 26, 2008, when he drafted and filed an objection to Mr. Hutchinson's June 16, 2008, Motion for Contempt. Neither Ms. Kuhn's name nor her signature appears on the objection. Rather, it is submitted by "FAMILYLEGAL" on behalf of Ms. Hyde and signed by Anthony Santoro, Esq.

11. Ms. Kuhn informed Ms. Hyde by letter dated July 3, 2008, that the court had deferred its ruling on the Motion for Contempt until the time of the pretrial hearing on August 25, 2008.
12. On July 8, 2008, Mr. Santoro sent Ms. Hyde a number of documents relating to her case including another copy of the Parenting Plan issued in May and a Notice of Hearing scheduling a Pretrial Conference for August 25, 2008, that had been addressed in the July 3 letter.
13. Sometime prior to the August conference, Ms. Kuhn spoke with Mr. Santoro about the case, prepared an outline for him for the hearing, and prepared a Pretrial Statement for submission to the court. An updated Financial Affidavit was prepared, but it was incomplete as it did not include Ms. Hyde's monthly expense form.
14. At the August 25, 2008, pretrial conference, Mr. Santoro appeared for Ms. Kuhn on behalf of Ms. Hyde. Mr. Macoul faxed a letter to Mr. Santoro later that day asking that he forward a complete financial affidavit for Ms. Hyde. A copy of the letter was mailed to Ms. Kuhn. Mr. Santoro did not respond.
15. In its Pretrial Conference Order of August 25, 2008, the Court scheduled a Final Pretrial Conference for November 12, 2008.
16. At the November 12, 2008, pretrial conference, Mr. Santoro once again appeared on behalf of Ms. Hyde. He had amended the pretrial documents prepared for the August hearing, but did not bring the required financial affidavit required by Family Division Rule 2.16.
17. In the Pretrial Conference Report issued following the November 12, 2008, conference, the Court (Moore, J.) specifically ordered, "Respondent shall file an update (sic) financial affidavit within 7 days." Mr. Macoul also sent a letter to Ms. Kuhn on November 12, 2008, advising her of the Court's specific order and requesting prompt production of the financial affidavit.
18. On November 20, 2008, Mr. Macoul sent Ms. Kuhn a Request for the Production of Documents that was to be presented to Ms. Hyde as part of routine discovery. Ms. Kuhn did not forward the Request to Ms. Hyde until December 16, 2008.
19. On November 21, 2008, Mr. Macoul mailed and faxed a letter to Ms. Kuhn telling her that he had not yet received the financial affidavit as ordered by the Court on November 12, 2008. Ms. Kuhn gave the letter to Attorney Santoro with a notation and directive on the bottom to take care of it. Attorney Santoro

met with Ms. Hyde on November 28, 2008, relative to the financial affidavit and her need to sign an updated one.

20. On December 1, 2008, Mr. Macoul filed a Motion for Contempt and To Compel stating that he had not yet received the financial affidavit. He requested a finding of contempt, along with an award of sanctions, fees and costs.

21. That same day, December 1, 2008, Mr. Santoro mailed a copy of Ms. Hyde's updated financial affidavit to the court with copies of the same to Mr. Macoul. However, on December 15, 2008, the Court (Moore, J.) granted Mr. Macoul's Motion for Contempt and to Compel, awarding the Petitioner attorney's fees in the amount of \$250.00, and further ordering that they be paid by December 31, 2008, "or a show cause hearing will be scheduled." The Order was noticed to the parties on December 22, 2008.

22. On December 16, 2008, unaware of the Court's ruling the previous day, as it was not yet noticed to the parties, Mr. Santoro filed an Objection to the Respondent's Motion for Contempt and To Compel. Mr. Santoro sent Ms. Hyde a copy of his objection and included the initial motion. Mr. Santoro's objection was denied on December 18, 2008, as "untimely filed" (Moore, J.).

23. Also on the 16<sup>th</sup> of December, Ms. Kuhn sent an internal e-mail to Mr. Santoro telling him that she had received Mr. Macoul's Request for Production of Documents on November 20, 2008. She asked Mr. Santoro to review the discovery deadlines in the case and, if they had not passed, to submit a motion to extend the deadlines. On that same day, Ms. Kuhn forwarded a copy of the Request for Production of Documents to Ms. Hyde asking that she provide any requested documents she had in her possession as quickly as possible.

24. On December 17, 2008, Mr. Santoro filed the Motion to Extend Deadline for the Production of Documents as requested by Ms. Kuhn. The Court allowed Ms. Kuhn and her client additional time until January 30, 2009, to produce the requested materials.

25. On January 5, 2009, Mr. Macoul sent a letter to Ms. Kuhn by mail and fax informing her that he had not yet received the \$250.00 to cover attorney's fees as ordered by the court on the Motion for Contempt and To Compel. Ms. Kuhn sent a personal check to Mr. Macoul made payable to Daniel Hutchinson on January 6, 2009.

26. On January 29, 2009, Mr. Macoul alerted Mr. Santoro to the fact that the deadline for the court-ordered production of documents was January 30, 2009, and that Ms. Hyde had not produced any of the documents. Mr. Santoro faxed a request to Mr. Macoul asking for an additional seven days.

27. On January 29, 2009, Mr. Santoro followed up with Ms. Hyde who informed Mr. Santoro that she had not received the requests in the mail. Mr. Santoro faxed a copy of the requests to Ms. Hyde and notified Ms. Kuhn via email about the status of the matter.

28. Ms. Kuhn thereafter called Ms. Hyde, and on February 2, 2009, Ms. Hyde faxed several documents to Family Legal Services in an attempt to satisfy the request for documents as ordered by the Court. Mr. Santoro forwarded that information to Mr. Macoul on February 3, 2009.

29. On February 13, 2009, Mr. Santoro wrote to Ms. Hyde relative to the ramifications of non-production, as all of the required documents had not been received from her.

30. On March 16, 2009, Mr. Santoro's notations to the file indicate Ms. Hyde contacted him regarding the valuation of the parties' real estate to provide to Mr. Macoul. Mr. Santoro wrote to Mr. Macoul relative to the real estate valuation issue. On March 24, 2009, Mr. Santoro spoke with Ms. Hyde relative to the need for an appraisal on the parties' real estate.

31. The Court ordered that a Telephonic Structuring Conference be held with counsel on May 5, 2009, in advance of the final hearing that was to commence June 8, 2009.

32. On May 1, 2009, Mr. Macoul sent an appraisal of the marital home to Mr. Santoro stating that he intended to use the same at trial. Mr. Macoul also supplemented his Pretrial Statement with the Court, and a copy of that was sent to Mr. Santoro.

33. On May 4, 2009, Mr. Santoro briefed Ms. Kuhn relative to the issues for the hearing, and told Ms. Kuhn about the appraisal he had received from Mr. Macoul. Mr. Santoro had already spoken with Ms. Hyde who expressed her desire to have her own appraisal prepared for use at the final hearing. He communicated Ms. Hyde's interest in having this appraisal completed, and the need for access to the home for this purpose, to Ms. Kuhn in two separate emails dated May 4, 2009.

34. Ms. Kuhn participated in the Telephonic Structuring Conference on May 5, 2009. Following the conference, the Court ordered both parties to produce discovery by the end of the week, make modifications or additions to witness lists prior to May 8, 2009, and determine a mutually agreeable time for Ms. Hyde's appraiser to access the marital home in order to prepare an appraisal, "which will

be submitted on an expedited basis no later than two weeks prior to the parties' Final Hearing." (Moore, J.).

35. On May 7, 2009, Mr. Santoro prepared a revised Pretrial Statement on behalf of Ms. Hyde. In it he indicated an intention to call Peter Yanco, the appraiser for Ms. Hyde's home, as a witness in the case.

36. On May 8, 2009, Ms. Kuhn prepared a more exhaustive Supplemental Pretrial Statement, which included, among other items, the names of witnesses including Mr. Yanco.

37. Mr. Santoro sent a letter to Mr. Macoul that same day providing the business address and phone number for Mr. Yanco. In his letter he stated, "Please make arrangements with [Yanco] to perform an appraisal at a time that is agreeable to your client."

38. Mr. Macoul responded that same day indicating that he did not intend to contact Mr. Yanco but that Mr. Yanco may contact his client directly for access to the marital home. Attorney Santoro then sent Mr. Yanco's curriculum vitae and a copy of his real estate license to Mr. Macoul. He also sent an email to Mr. Yanco.

39. On May 19<sup>th</sup>, Mr. Macoul sent a letter to Ms. Kuhn telling her that despite his belief that he and his client were not responsible for arranging the appraisal for Ms. Hyde's benefit, his client had contacted Mr. Yanco on May 12<sup>th</sup> in an effort to arrange access to the marital home. He further stated that Mr. Yanco had not responded.

40. On May 21, 2009, Mr. Santoro sent a letter to Mr. Yanco asking that he contact Mr. Hutchinson to initiate the appraisal and provided Mr. Hutchinson's contact information. A copy of the letter was sent to Ms. Hyde.

41. In light of the Court's structuring conference order of May 5, 2009, the appraisal should have been completed and submitted by May 25, 2009.

42. On May 28, 2009, Mr. Yanco provided the appraisal to Mr. Santoro who forwarded the same to Mr. Macoul by letter dated May 31, 2009, which was mailed on June 1, 2009 (May 31, 2009, being a Sunday). The appraisal was for \$280,000.00, approximately \$40,000.00 higher than the appraisal prepared for Mr. Hutchinson.

43. The case went to trial on June 8, 2009.

44. Both Ms. Kuhn and Mr. Santoro appeared at the trial on behalf of Ms. Hyde. Mr. Santoro cross-examined the appraiser called by Mr. Macoul to testify as to the value of the marital residence.

45. When it came time to call Mr. Yanco as a witness for Ms. Hyde, Mr. Macoul objected based on counsel's late production of Yanco's appraisal report.

46. After inquiring of Mr. Santoro about the cause for the delay in producing the appraisal, the Court offered Mr. Santoro the choice of excluding evidence of Mr. Yanco's appraisal or accepting a sanction for the late production of the report. At Ms. Kuhn's direction, Mr. Santoro agreed to accept a sanction. In its final order, the Court sanctioned Attorney Santoro and ordered him to pay sanctions. After the case, Mr. Santoro forwarded a check to Mr. Macoul in the amount of \$762.00 representing the fee charged by Mr. Macoul's expert appraiser to review Mr. Yanco's appraisal and to prepare and testify at trial.

47. Due to the length of time it took the trial court to resolve the issue surrounding preparation and disclosure of his appraisal, Mr. Yanco had to appear for a second day of trial testimony. Ms. Kuhn paid for the second day of testimony from her own funds.

48. The Court issued its final orders in the divorce case on June 25, 2009. The Clerk's Notice of Decision clearly stated that objections must be filed with the Court within 10 days of the date of the Notice of Decision.

49. Ms. Hyde was informed by her ex-husband, Mr. Hutchinson, that he had received a copy of the Final Order. She then called Mr. Santoro who advised her that Family Legal Services had not yet received a copy of the Final Order. She explained to Mr. Santoro that her ex-husband had his copy and that she had received her copy of the Order from him.

50. After reviewing the Final Order, Ms. Hyde attempted to reach Ms. Kuhn. She left a message for Ms. Kuhn to call her immediately. Ms. Kuhn would testify that she never received any message about the call.

51. On June 30, 2009, Mr. Santoro became aware that the Final Order was in the office, and put a copy of it in the mail to Ms. Hyde. On July 1, 2009, he called Ms. Hyde to discuss it with her.

52. Mr. Santoro called Ms. Kuhn at the Dover office of Family Legal Services and discussed the Order with Ms. Kuhn at which time Ms. Kuhn instructed him to schedule a time to meet with Ms. Hyde to discuss a Motion for Reconsideration.

53. On July 1, 2009, Mr. Macoul filed a Motion for Partial Clarification of the Final Order.

54. On July 5, 2009, Mr. Macoul sent a letter to Ms. Kuhn seeking to resolve some remaining issues regarding the parenting plan and other provisions of the Final Order.

55. Mr. Santoro had set up a meeting for 6 p.m. on Monday, July 6, 2009, for Ms. Hyde to come in to discuss the Motion for Reconsideration.

56. On Monday, July 6, 2009, Mr. Santoro and Ms. Kuhn met with Ms. Hyde. Ms. Hyde stated her concerns about the court's orders relating to fault, child support, and division of the parties' business assets. Ms. Kuhn mentioned the firm would file a Motion to Reconsider asking the Court to address those issues. Ms. Hyde expressed her desire that the firm file such a motion.

57. At some point later that evening, Ms. Kuhn spoke with Mr. Santoro, mentioning that the filing deadline was passed that day, her frustration that he scheduled the meeting with Ms. Hyde on the evening of the deadline after the Court had closed and instructing him to file a Motion to Reconsider first thing in the morning. Mr. Santoro drafted the Motion to Reconsider that evening.

58. On July 7, 2009, the next day, Mr. Santoro filed the Motion with the court asking that the court reconsider its rulings relative to fault, child support, medical insurance coverage and other issues. There is no indication that Ms. Kuhn ever reviewed the Motion to Reconsider before it was filed.

59. On July 8, Mr. Macoul filed an Objection to the Motion to Reconsider arguing that it was not timely filed. On July 15, 2008, Judge Moore denied the Motion to Reconsider. There was no reason given by the Court for why the Motion was denied. Mr. Santoro is no longer employed by FamilyLegal.

Stipulation ¶¶ 1-59 at 1-12.

## **II. RULINGS OF LAW**

The PCC accepts the Stipulation and accordingly finds clear and convincing evidence that the Respondent violated the following Rules of Professional Conduct.

### **Rule 1.3: Diligence**

61. Ms. Kuhn had a duty to act with reasonable diligence and promptness in representing Ms. Hyde in her divorce case.

62. Through her own neglect, inadvertence, or inadequate supervision of her associate, Mr. Santoro, Ms. Kuhn being lead counsel in the case missed certain discovery, disclosure and filing deadlines in Ms. Hyde's case.
63. Ms. Kuhn had an obligation under the court rules to have an updated and complete financial affidavit prepared for the August 25, 2008, Pretrial Conference, the November 12, 2008, Final Pretrial Conference, and in compliance with the Court's November 12, 2008, Pretrial Conference Report. Ms. Kuhn did not comply with the Court's rules and orders in this regard. A finding of contempt and an order for the payment of attorney's fees were entered by the Court against Ms. Hyde for failing to file a complete and updated financial affidavit as required. Ms. Kuhn paid the fees.
64. Ms. Kuhn had an obligation to see to it that all motions and objections on behalf of Ms. Hyde were filed in a timely manner. However, the Respondent's Objection to Motion for Contempt and To Compel, signed December 16, 2008, was filed by Mr. Santoro beyond the 10-day motion deadline and subsequently denied by the Court as untimely filed. Also, the Motion to Reconsider the court's Final Order in Ms. Hyde's case was submitted to the Court the day after the deadline for filing had passed.
65. Further, Ms. Kuhn had an obligation to act with diligence in the representation of Ms. Hyde. Ms. Kuhn caused the need for an extension of deadlines when she failed to provide Ms. Hyde with the Request for Production of Documents in a timely fashion.
66. Finally, Ms. Kuhn failed to act diligently in response to the Court's Telephonic Structuring Conference Order requiring the parties to promptly arrange for Ms. Hyde's appraiser, Peter Yanco, to appear at the marital residence in order to prepare his appraisal and to produce a report on an expedited basis. Ms. Kuhn assigned the task to Mr. Santoro, rather than handling the issue herself, which created unnecessary delays that resulted in the late filing of the appraiser's report prior to trial, placing her client at risk of not being allowed to present her own expert. The Court did however hear the testimony and consider the report.
67. Ms. Kuhn's conduct in this case constitutes clear and convincing evidence of a violation of Rule 1.3.

**Rule 5.1(b): Responsibilities of Ms. Kuhn as Supervisory Lawyer**

68. The stipulated facts set forth above are incorporated by reference.

69. After having assumed responsibility for Ms. Hyde's case and filing a written appearance on her behalf, Ms. Kuhn had a responsibility to act with diligence in representing Ms. Hyde.

70. As part of her duties as counsel for Ms. Hyde, she had an obligation to supervise Mr. Santoro, and make reasonable efforts to ensure that his conduct conformed to the Rules of Professional Conduct, including those rules relating to the diligent representation of a client.

71. However, Ms. Kuhn's failure to adequately supervise Mr. Santoro or terminate his involvement with the case throughout the representation of Ms. Hyde resulted in unnecessary delays, missed deadlines and additional litigation at various times in the case, causing potential harm to Ms. Hyde's interests.

72. Ms. Kuhn's lack of adequate supervision in this case constitutes clear and convincing evidence of a violation of Rule 5.1(b).

**Rule 8.4(a): General Rule**

73. Because there is clear and convincing evidence that Ms Kuhn violated the above Rules, there is necessarily clear and convincing evidence of a violation of Rule 8.4(a).

Stipulation ¶¶ 61-73 at 12-15.

### III. ANALYSIS

The Committee looks for guidance to the American Bar Association's *Standards for Imposing Lawyer Sanctions* (1992) (the "Standards"). The *Standards* set forth a four part analysis for the Committee to consider in imposing sanctions: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors. *Standard 3.0; Grew's Case*, 156 N.H. 361, 365 (2007). The first three steps create the framework for characterizing the misconduct and determining a baseline sanction. *See, e.g., Wolterbeek's Case*, 152 N.H. 710, 714 (2005) ("In applying these factors, the first step is to categorize the respondent's misconduct and identify the appropriate sanction."). After the baseline sanction is determined, the Court then looks to the fourth and final step in the analysis: the existence of any aggravating or mitigating factors and whether they affect the baseline sanction. *See, e.g., id.* ("After determining the sanction, [the Court] considers the effect of any aggravating or mitigating factors on the ultimate sanction.").

Under the first prong of the analysis, Ms. Kuhn violated her duty of diligence in her representation of her client. Additionally, she violated her duty to make reasonable efforts to ensure that the lawyer she was supervising conformed to the Rules.

The second prong of the three-part test requires analysis of Ms. Kuhn's mental state. The parties agree, and the Committee concurs, that Ms. Kuhn's misconduct was the result of negligence.

The third prong requires analysis of the potential or actual injury caused by Ms. Kuhn's misconduct. Although there is no evidence to suggest that the outcome of any material issue in the case was adversely affected, Ms. Kuhn's negligence prolonged the litigation process and placed the interests of her client at risk. It should be noted that several members of the Committee were especially troubled by the contempt citation endured by her client as a result of Ms. Kuhn's negligence.

In determining a baseline sanction here, the *Standards* offer material guidance. *Standard* 4.4 entitled "Lack of Diligence" provides as follows:

- 4.41 Disbarment is generally appropriate when:
- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
  - (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
  - (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.
- 4.42 Suspension is generally appropriate when:
- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or
  - (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.
- 4.43 Reprimand<sup>1</sup> is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

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<sup>1</sup> Section 4.43 uses the term "Reprimand." The most analogous sanction in New Hampshire is a Public Censure.

- 4.44 Admonition<sup>2</sup> is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

For the purpose of this analysis under the *Standards*, Ms. Kuhn's conduct is most closely associated with a negligent violation, warranting a baseline sanction of Reprimand (analogous to Admonition in the *Standards*). Ms. Kuhn's failure to supervise also warrants a Reprimand as her negligent supervision resulted in a lack of diligence on the part of Mr. Santoro. Diligence in the representation of Ms. Hyde would have, by necessity, included adequate and effective oversight of the legal work being completed by Mr. Santoro on Ms. Hyde's behalf.

On January 10, 2008, the Complaint Screening Committee issued a non-disciplinary warning to Ms. Kuhn in the matter of *Kuhn, Sandra A. advs. Tammy Morrissette # 07-011*. The basis for the warning was Ms. Kuhn's failure to ensure accurate billing of legal services and her failure to ensure that her client was made aware of a court hearing that the client was expected to attend. This warning serves as an aggravating factor in Ms. Kuhn's case. The absence of a selfish or dishonest motive is a mitigating factor. Throughout the investigation and resolution of this matter Ms. Kuhn was cooperative and forthcoming.

As to the fourth prong in the sanction analysis contemplated under the *Standards*, the parties agree, and the Committee concurs, that the facts in this case, combined with a balance of aggravating and mitigating factors, suggest that the sanction of Reprimand is appropriate.

#### IV. SANCTION

Based on the Stipulation and the above analysis, the Committee imposes a Reprimand.

#### V. COSTS

The Stipulation requires, and the Committee orders that Ms. Kuhn pay all costs associated with the investigation and prosecution of this matter.


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<sup>2</sup> Section 4.14 uses the term "Admonition." The most analogous sanction in New Hampshire is a Reprimand.

**VI. CONCLUSION**

For the above reasons, the Committee issues a Reprimand to Sandra A. Kuhn for violating N.H. R. Prof. Conduct 1.3: Diligence, 5.1(b): Responsibilities of Ms. Kuhn as Supervisory Lawyer, and 8.4(a): Misconduct.

January 18, 2012

  
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Margaret H. Nelson  
Chair

Distribution:  
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File