

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2011-0001, In the Matter of David W. Pellenz

On February 10, 2011, the Attorney Discipline Office (ADO) filed a certified copy of the judgment of the Merrimack County Superior Court in State of New Hampshire v. David Pellenz. The judgment reflects that Attorney Pellenz was convicted of the crime of hindering apprehension or prosecution, a class A misdemeanor.

In accordance with Rule 37(9)(d), the court referred this matter to the Professional Conduct Committee (PCC) for a determination of the extent of discipline to be imposed. After a hearing the PCC recommended that Attorney Pellenz be disbarred. In response to the recommendation, Attorney Pellenz submitted his "resignation" from the bar. Because Attorney Pellenz's resignation did not meet the requirement of Rule 37(11), which governs resignation of an attorney under disciplinary investigation, Attorney Pellenz was ordered to submit to the PCC an affidavit requesting to resign as required by the rule. Attorney Pellenz subsequently sent the PCC an undated affidavit requesting to resign from the bar. On December 15, 2011, the PCC recommended that Attorney Pellenz's request to resign be denied because his affidavit failed to meet the requirements of the rule and because, in its view, the circumstances of his case make resignation inappropriate.

Attorney Pellenz's request to resign from the bar is denied. After reviewing the PCC's recommendation on the appropriate sanction in this case, the court concludes that, given the gravity of Attorney Pellenz's misconduct, disbarment is the appropriate sanction.

THEREFORE, in accordance with Rule 37(9)(d), the court orders that David W. Pellenz be disbarred from the practice of law in New Hampshire.

Attorney Pellenz is hereby assessed all expenses incurred by the PCC in the investigation and prosecution of this matter.

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

DATE: February 24, 2012

ATTEST:


Eileen Fox, Clerk

Distribution:
David W. Pellenz
Gary S. Lenehan, Esq.
Thomas V. Trevethick, Esq.
Julie Introcaso, Esq.
Margaret Nelson, Esq.
File

THE STATE OF NEW HAMPSHIRE

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ORDER

LD-2011-0001, In the Matter of David W. Pellenz

On February 10, 2010, the Attorney Discipline Office filed a certified copy of a January 28, 2011 judgment of Merrimack County Superior Court, which states that Attorney David W. Pellenz was convicted of the crime of hindering apprehension or prosecution, a class A misdemeanor. The court concludes that this conviction constitutes a "serious crime" under Rule 37(9)(b). In accordance with Rule 37(9), when it is established that an attorney has been convicted of a "serious crime," the court may enter an order suspending the attorney pending final disposition of a disciplinary hearing to be commenced upon such conviction. In accordance with Rule 39(9), the court orders as follows:

1. David W. Pellenz is immediately suspended from the practice of law in New Hampshire on a temporary basis pending further order of this court. Attorney Pellenz 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 Pellenz is enjoined from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.
3. Copies of this order and of the certified judgment of Merrimack County Superior Court shall be served on Attorney Pellenz by first class mail and by certified mail, return receipt requested. Copies shall also be sent by first class mail to Attorney Pellenz's counsel and to the Professional Conduct Committee.

On or before March 3, 2011, the Attorney Discipline Office shall advise the court whether an attorney should be appointed in accordance with Rule 37(17) to take possession of Attorney Pellenz's client files and trust accounts and to take such action as is necessary to protect the interest of his clients.

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

DATE: February 11, 2011

ATTEST:


Eileen Fox, Clerk

Distribution:
Attorney Discipline Office
Thomas V. Trevethick, Esquire
David W. Pellenz
Gary S. Lenehan, Esquire
Professional Conduct Committee
NH Bar Association
File