

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. LD-2013-0004, In the Matter of William T. Whittenberg, Jr., the court on October 18, 2013, issued the following order:

The Attorney Discipline Office (ADO) filed a motion to vacate the court's interim suspension of Attorney William T. Whittenberg, Jr. In the motion, the ADO states that, although the disciplinary matter involving Attorney Whittenberg remains pending, it does not consider his continued interim suspension to be necessary for the protection of the public or the integrity of the legal profession. The ADO's motion to vacate the interim suspension of Attorney Whittenberg is granted. Attorney William T. Whittenberg, Jr., is reinstated to the practice of law in New Hampshire.

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

**Eileen Fox,
Clerk**

Distribution:

Attorney Discipline Office
William T. Whittenberg, Esq.
Sara S. Greene, Esq.
Michael G. Gfroerer, Esq.
File

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SUPREME COURT

ORDER

LD-2013-0004, In the Matter of William T. Whittenberg, Jr.

On March 6, 2013, the Attorney Discipline Office filed a petition for interim suspension from the practice of law of Attorney William T. Whittenberg, Jr. In the petition, the ADO states that it docketed a complaint against Attorney Whittenberg alleging that he violated Rules 1.15, 8.4(c) and 8.4(a) of the Rules of Professional Conduct, as well as Supreme Court Rule 50. The complaint was based on information provided to the ADO by Attorney Whittenberg's former law firm, which appears to show that Attorney Whittenberg failed to safeguard client property, deceived his former law firm about the existence of clients and client funds, and failed to complete a trust accounting compliance certificate disclosing IOLTA and other client accounts under his control. The ADO states that it notified Attorney Whittenberg of the charges against him and directed him to file an answer to the charges by February 15, 2013. It states that, when Attorney Whittenberg failed to file an answer, it sent a second notice requiring Attorney Whittenberg to file an answer by February 20, 2013. The ADO alleges that Attorney Whittenberg failed to file an answer or otherwise respond to the charges. In its petition, the ADO argues that, under these circumstances, Attorney Whittenberg's continued practice of law and continued handling of client funds poses an ongoing risk to the public. It requests that Attorney Whittenberg be suspended from the practice of law in New Hampshire on an interim basis pending resolution of the charges against him, and that an attorney be appointed to protect the interests of his clients and to take possession of his client files and bank accounts.

After the petition was filed, the court issued an order requiring Attorney Whittenberg to show cause by March 18, 2013, why he should not be suspended from the practice of law in New Hampshire pending resolution of disciplinary charges against him. The order advised Attorney Whittenberg that the allegations of the petition would be deemed admitted and no further hearing required if he failed to file an answer to the petition. The order was sent to Attorney Whittenberg by first class and certified mail, and the certified mailing was delivered to Attorney Whittenberg's law office on March 9, 2013. Attorney Whittenberg has not filed a response to the court's order.

In light of the serious nature of the allegations against Attorney Whittenberg and his failure to file a response to the petition, the court finds

that Attorney Whittenberg's immediate suspension is necessary to protect the public and to preserve the integrity of the legal profession. See Rule 37(16)(f); Reiner's Case, 152 N.H. 163 (2005). Accordingly, it is hereby ordered:

- (1) In accordance with Rule 37(16)(f), Attorney William T. Whittenberg, Jr. is immediately suspended from the practice of law in New Hampshire pending resolution of the disciplinary charges against him and further order of this court.
- (2) Attorney Whittenberg is enjoined from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.

Pursuant to Supreme Court Rule 37(17), Attorney Michael G. Gfroerer is appointed to protect the interests of Attorney Whittenberg's clients, to take immediate possession of Attorney Whittenberg's client files and trust and other fiduciary accounts, and to make an inventory of such files and accounts. Attorney Gfroerer is directed to take the following actions:

- a. Attorney Gfroerer shall notify all employees of Attorney Whittenberg of Attorney Whittenberg's suspension from the practice of law and of Attorney Gfroerer's appointment by the court.
- b. Attorney Gfroerer shall notify all banks and other entities where any trust or fiduciary accounts and operating accounts of Attorney Whittenberg are held of Attorney Whittenberg's suspension and of Attorney Gfroerer's appointment by the court.
- c. Attorney Gfroerer shall review Attorney Whittenberg's client files and shall take such actions as he deems necessary to protect the interests of the clients.
- d. Attorney Gfroerer shall notify Attorney Whittenberg'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.
- e. Attorney Gfroerer shall make an inventory of Attorney Whittenberg's client files and trust and other fiduciary accounts, and file a copy of the inventory with the court on or before May 20, 2013, 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 Whittenberg's clients.

Attorney Whittenberg is ordered to cooperate with Attorney Gfroerer in performing these tasks.

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

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

DATE: March 20, 2013

ATTEST:


Eileen Fox, Clerk

Distribution:

Attorney Discipline Office
William T. Whittenberg, Esq.
Sara S. Greene, Esq.
Michael G. Gfroerer, Esq.
File