

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**O R D E R**

**LD-2014-0002, In the Matter of Paul J. Bennett**

On January 21, 2014, the Professional Conduct Committee (PCC) filed a petition for a two-year suspension of Attorney Paul J. Bennett from the practice of law, with the second year of the suspension stayed for one year. After Attorney Bennett was served with the petition, counsel for Attorney Bennett notified the court that Attorney Bennett did not intend to file an answer to the petition.

The PCC's petition is based upon a stipulation entered into by the Attorney Discipline Office (ADO) and Attorney Bennett, in which the parties agreed to the pertinent facts and Attorney Bennett conceded that he had violated the Rules of Professional Conduct and Supreme Court Rule 50. Specifically, Attorney Bennett stipulated that he had violated the following rules:

- (a) Rule of Professional Conduct 1.15 and Supreme Court Rule 50, which require a lawyer to safeguard the property of clients and third parties and establish requirements for the maintenance of lawyer trust accounts. Attorney Bennett stipulated that he violated these rules by failing to hold client funds separate from his own or his law firm's funds; failing to timely transfer credit card payments deposited in a merchant trust account to his general client trust account or to his operating account; commingling earned fees with client funds in his trust accounts; and knowingly making disbursements from client trust accounts to pay firm operating expenses. Attorney Bennett also admitted that he withdrew funds from client trust accounts to pay fees not yet earned or invoiced; failed to maintain records relating to the handling, maintenance and disposition of client funds; failed to fully and accurately document financial transactions affecting client funds, failed to perform monthly reconciliations of each client trust account; failed to provide complete and accurate information in his Trust Account Compliance Certificates; and allowed his client trust accounts to be out of trust for a significant period.

- (b) Rule 5.3, which sets forth the obligations of a lawyer in hiring and supervising non-lawyer assistants. Attorney Bennett stipulated that he violated this rule by failing to make reasonable efforts to have a record-keeping system in place that ensured the proper handling and maintenance of client funds and client trust accounts, as well as accurate reporting to the Supreme Court; and by failing to employ, train and properly supervise his non-lawyer assistants charged with record keeping, handling and maintenance of such accounts, as well as the preparation of his Trust Accounting Compliance Certificates. Attorney Bennett admitted that to the extent his non-lawyer assistants contributed to the rule violations, he knew or should have known of their poor performance and was wholly responsible for such misconduct.
- (c) Rule 8.4(a), which makes it professional misconduct to violate the Rules of Professional Conduct. Attorney Bennett stipulated that he violated this rule by violating Rules 1.15 and 5.3.

The PCC accepted the parties' stipulation as to the pertinent facts and rule violations. It recommended that Attorney Bennett be suspended for a period of two years, with the second year of the suspension stayed for a period of one year provided that Attorney Bennett comply with certain conditions. The conditions are set forth in the PCC's recommendation. The PCC's recommendation also included a process for imposing the stayed portion of the suspension should Attorney Bennett fail to comply with the conditions of the stay.

Having reviewed the PCC's petition and the parties' stipulations, the court accepts the PCC's findings and rulings, as well as its recommendation of the sanction that should be imposed. Therefore, the court orders that Attorney Paul Bennett be suspended from the practice of law in New Hampshire for a period of two years, with the suspension to become effective 30 days from the date of this order. One year from the effective date of his suspension, Attorney Bennett may request that the PCC or ADO request that the court reinstate him to the practice of law and stay the second year of the suspension, provided that Attorney Bennett has complied with the stay conditions set forth in the PCC's recommendation. Upon certification to the court by the PCC or the ADO that Attorney Bennett has complied with the conditions necessary for reinstatement, an order reinstating Attorney Bennett to the practice of law will be issued by the court and the remainder of the suspension shall be stayed.

The PCC's recommendation included a process for imposing the second year of the suspension should Attorney Bennett not comply with the conditions of the stay. If the PCC determines that Attorney Bennett has not complied with

the conditions of the stay, it may impose the second year of the suspension, and its decision shall be final. If the PCC imposes any portion of the second year of the suspension after reinstatement, it shall notify the court. At the conclusion of the two year stay, either party may request that the stay of the remaining suspension be made permanent.

Attorney Bennett is hereby assessed all expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter. See Rule 37(19).

So ordered.

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

DATE: April 24, 2014

ATTEST:

  
**Eileen Fox, Clerk**

Distribution:  
Professional Conduct Committee  
David M. Rothstein, Esq.  
Elizabeth M. Murphy, Esq.  
Paul J. Bennett, Esq.  
Justin C. Shepherd, Esq.  
File

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

LD-2014-0002

IN THE MATTER OF  
Paul J. Bennett, Esquire

MOTION TO CLOSE WITHOUT PREJUDICE

NOW COMES Elizabeth M. Murphy, Assistant Disciplinary Counsel, and respectfully requests that this Court issue an Order closing the above-captioned matter without prejudice.

In support, undersigned counsel states as follows:

1. On April 24, 2014, the Supreme Court issued an order suspending Mr. Bennett for two years for violating Supreme Court Rule 50 and Rules of Professional Conduct 1.15, 5.3, and 8.4(a), effective May 24, 2014. On June 27, 2014, Mr. Bennett filed an Affidavit with the Attorney Discipline Office and the Professional Conduct Committee, certifying his compliance with Supreme Court Rule 37(13).
2. The first year of the suspension was to be served, but the order set forth provisions for the second year to be stayed subject to Mr. Bennett's compliance with the following conditions if he applied for readmission:

- A. Retaining at his expense the services of financial and office practices consultants to assist him in the implementation of bookkeeping and accounting systems designed to ensure that all accounts are handled and maintained in compliance with applicable rules, including Supreme Court Rule 50;
  - B. Implementation of procedures to employ and train staff to assist in office management systems;
  - C. Becoming familiar with, regularly monitoring of and approving accounting and client billing procedures, including monthly reconciliations of client trust accounts;
  - D. Entering into a written agreement with the ADO regarding a quarterly reporting system of his practice's financial management and agrees to random audits by the staff auditor with the costs of such audits to be paid by Mr. Bennett;
  - E. Compliance with all requirements for reinstatement set forth in Supreme Court Rule 37(14), and
  - F. Reimbursement of, or establishment of a plan to reimburse the Committee for all expenses as set forth in the costs assessment
3. At the conclusion of the first year of the suspension, Mr. Bennett did not apply for reinstatement, and therefore the suspension was never stayed.
  4. Mr. Bennett has now been suspended from the practice of law for two years. He has not applied for reinstatement at this time.
  5. For these reasons, the ADO requests that this Court issue an order to close the matter without prejudice until such time as Mr. Bennett applies for reinstatement pursuant to Supreme Court Rule 37(14).

WHEREFORE, the Attorney Discipline Office respectfully requests that this honorable Court:


- (A) Issue an order closing this matter without prejudice; and

(B) Grant such other relief as is fair and in the public interest.

New Hampshire Supreme Court  
Attorney Discipline Office  
4 Chenell Drive, Suite 102  
Concord, New Hampshire 03301  
(603) 224-5828

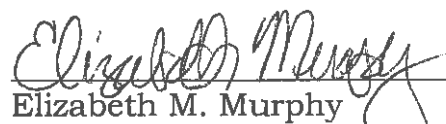
Date: June 7, 2016

By:

  
Elizabeth M. Murphy  
Assistant Disciplinary Counsel  
NH Bar ID No. 16478

CERTIFICATION

I, Elizabeth M. Murphy, Assistant Disciplinary Counsel of the New Hampshire Supreme Court Attorney Discipline Office, certify that a copy of the aforesaid "Motion to Close Without Prejudice" is being sent on this 7<sup>th</sup> day of June, 2016, to Paul J. Bennett, Esquire, at 47 Linden Street, Manchester, New Hampshire 03101 and to Justin Shepherd, Esquire, counsel for Paul J. Bennett, at The Law Office of Shepherd & Osborne, 351 Main Street, Nashua, New Hampshire 03060, by regular mail postage prepaid. A copy has also been hand-delivered to David M. Rothstein, Chair, Professional Conduct Committee c/o Barbara Guay, 4 Chenell Drive, Suite 102, Concord, New Hampshire 03301.

  
Elizabeth M. Murphy  
Assistant Disciplinary Counsel

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**In Case No. LD-2014-0002, In the Matter of Paul J. Bennett,  
the court on July 5, 2016, issued the following order:**

Motion to close case without prejudice is granted. This matter is closed until such time as Attorney Bennett seeks reinstatement.

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

**Eileen Fox,  
Clerk**

Distribution:

David M. Rothstein, Esquire  
Elizabeth M. Murphy, Esquire  
Justin C. Shepherd, Esquire  
Paul J. Bennett, Esquire  
File