

New Hampshire Supreme Court
Professional Conduct Committee

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Arthur C. Randlett, Arthur C. advs. Mark Cronin # 03-054

AND

Randlett, Arthur C. advs. Professional Conduct Committee #03-086

DISBARMENT

On September 21, 2004 the Professional Conduct Committee considered the above-referenced material. The Committee reviewed the record including the Hearing Panel Report submitted by the Hearings Committee. The Respondent did not appear before the Hearing Panel.

The Professional Conduct Committee members that heard the matter consisted of: Margaret Nelson, Chair, Stephen Stepanek, Reporter, Benette Pizzimenti, Toni Gray, David Cole, Thomas Connair, Morgan Hollis, James Martin, Richard McNamara, and David Page. Recused: Alan J. Cronheim.

The Professional Conduct Committee thoroughly reviewed the record in this matter. Having reviewed the record, including notice of charges, motion to consolidate Docket #03-054 and # 03-086, Hearing Panel Report and Transcript of May 20, 2004 Hearing. The Professional Conduct Committee makes factual findings and rulings as detailed below.

Factual Findings #03-054

The Professional Conduct Committee has determined that the record supports the following factual findings by clear and convincing evidence:

1. On March 1, 2004, pursuant to New Hampshire Supreme Court Rule 37A(III)(b)(2), the Attorney Discipline Office issued a Notice of Charges in this matter.

2. On March 12, 2004, the Rockingham County Sheriff's Office served the Notice of Charges on Arthur C. Randlett on an in-hand basis. To date, the Attorney Discipline Office has not received an Answer to the Notice of Charges.
3. Pursuant to Rule 37A(III)(b)(3)(A), Mr. Randlett had thirty (30) days from the date of service to file an Answer to the Notice of Charges.
4. Because of Mr. Randlett's failure to file an Answer, the same Rule requires that "the allegations set forth in the Notice of Charges shall be deemed to be admitted." N.H. Sup. Ct. R. 37(III)(b)(3)(A).
5. By operation of Rule 37(III)(b)(3)(A), this pleading incorporates as admissions the alleged facts and rule violations contained in the Notice of Charges.
6. On January 24, 2003, Mark Cronin hired Mr. Randlett to handle two civil matters that were pending in the Rockingham County Superior Court. At that time, Mr. Cronin gave Mr. Randlett a check for \$1,000.00 as a retainer in the two civil matters.
7. On February 11, 2003, Mr. Randlett filed an Appearance in the two civil matters. On the Appearance, Mr. Randlett identified his law firm as Salomon, Randlett & Bernard, 750 Exeter Road, Hampton, New Hampshire 03842.
8. On or about March 11, 2003, Mr. Cronin received a billing statement from Mr. Randlett for the amount of \$105.00. That bill contained no reference to the prior payment of \$1,000.00.
9. Mr. Cronin telephoned Mr. Randlett's firm and inquired as to the status of the \$1,000.00 retainer. The woman with whom he spoke indicated that a mistake had been made and future billings would include the retainer figure.
10. On or about April 11, 2003, Mr. Cronin received a certified letter from Attorney Gordon J. MacDonald of the firm of Nixon Peabody LLP. Mr. MacDonald's letter informed Mr. Cronin that Mr. Randlett had been suspended from the practice of law by the New Hampshire Supreme Court as of April 4, 2003.

11. Mr. MacDonald further explained in the letter that he had been appointed by the Supreme Court to take possession of and inventory Mr. Randlett's files. Mr. MacDonald advised Mr. Cronin to obtain the services of another attorney to handle the pending civil matters.
12. Per Mr. Cronin's request, Mr. MacDonald forwarded his files to him.
13. Mr. MacDonald also advised Mr. Cronin to contact the Professional Conduct Committee to ascertain the status of the \$1,000.00 retainer. To that end, Mr. Cronin made contact with the Professional Conduct Committee both by telephone and letter.
14. In a letter dated May 12, 2003, the Professional Conduct Committee informed Mr. Cronin that the Committee's Auditor, Craig A. Calaman, CPA, investigated the matter and confirmed that the \$1,000.00 retainer check was not deposited into a trust account and was not safeguarded.
15. On May 1, 2003, Mr. Cronin sent a letter to Mr. Randlett requesting the balance of the retainer in the amount of \$895.00.
16. To date, Mr. Cronin has received no reply to his May 1, 2003 letter.

Rulings of Law #03-054

The above listed facts having been found by clear and convincing evidence, the Professional Conduct Committee concludes that there is clear and convincing evidence that Arthur C. Randlett has violated the following Rules of Professional Conduct:

1. Mr. Randlett's failure to deposit Mr. Cronin's retainer check into a trust account and to safeguard those funds constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.15(a)(1), and N.H. Sup. Ct. R. 50(2)(B).
2. Mr. Randlett's failure to deliver promptly to Mr. Cronin the balance of his retainer pursuant to his request constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.15(b).

3. Mr. Randlett's failure to return the unearned portion of Mr. Cronin's retainer fee to him constitutes clear and convincing evidence of conduct involving dishonesty in violation of N.H. R. Prof. Conduct 8.4(c).
4. Because there exists clear and convincing evidence of violation of the aforementioned Rules, there is necessarily clear and convincing evidence of a violation of Rule 8.4(a).

Factual Findings #03-086

The Professional Conduct Committee has determined that the record supports the following factual findings by clear and convincing evidence:

1. On March 8, 2004, pursuant to New Hampshire Supreme Court Rule 37A(III)(b)(2), the Attorney Discipline Office issued a Notice of Charges in this matter.
2. On March 12, 2004, the Rockingham County Sheriff's Office served the Notice of Charges on Arthur C. Randlett on an in-hand basis.
3. To date, the Attorney Discipline Office has not received an Answer to the Notice of Charges.
4. Pursuant to New Hampshire Supreme Court Rule 37A(III)(b)(3)(A), Mr. Randlett had thirty (30) days from the date of service to file an Answer to the Notice of Charges.
5. Because of Mr. Randlett's failure to file an Answer, the same Rule requires that "the allegations set forth in the Notice of Charges shall be deemed to be admitted." N.H. Sup. Ct. R. 37(III)(b)(3)(A).
6. In paragraph 2 of the Notice of Charges, the audit report authored by Craig A. Calaman, C.P.A., dated September 2, 2003 (hereinafter referred to as "Mr. Calaman's Report") was incorporated into and made a part of the Notice of Charges.
7. Likewise, Mr. Calaman's Report is attached to this pleading and is hereby incorporated into and made a part of this pleading.

8. By operation of Supreme Court Rule 37A(III)(b)(3)(A), each allegation contained in the Notice of Charges, as well as Mr. Calaman's Report, is "deemed to be admitted" by Mr. Randlett.
9. Mr. Calaman's audit of Mr. Randlett's financial records covered the following time-period: January 1, 1997 through May 31, 2003.
10. Mr. Calaman found major discrepancies in the following four of Mr. Randlett's bank accounts: (1) Century Title & Abstract Company, Client Trust Account, Citizens Bank, Account #330316-587-6; (2) Century Title & Abstract Company, Citizens Bank Account #330150-122-4; (3) Arthur C. Randlett, PA, General Client Trust Account, Citizens Bank, Account #33037-052-5; and (4) Arthur C. Randlett, PA, Operating Account, Community Bank and Trust, Account #0001103288. These discrepancies resulted in client overdrafts and/or out of trust situations as set forth herein.
11. With respect to the Century Title & Abstract Company, Client Trust Account, Citizens Bank, Account #330316-587-6, there were ten different real estate transactions in which Mr. Randlett's inattention to his fiduciary obligations to his clients caused client overdrafts and out of trust situations. See Mr. Calaman's Report at pp. 5-10. With respect to that same account, Mr. Randlett made twenty-two withdrawals from the account that were not authorized by the client and/or were not in any way related to the underlying transaction. In each instance, Mr. Randlett disbursed the funds either to himself or to his operating account. See Mr. Calaman's Report at pp. 10-17.
12. With respect to the Century Title & Abstract Company, Citizens Bank, Account #330150-122-4, Mr. Randlett made several disbursements and one deposit that were each unidentified as to the owner of the funds and purpose of the transaction. Mr. Randlett made four separate unauthorized withdrawals from this account. Mr. Randlett disbursed the funds from three of these unauthorized withdrawals to his

operating account. On September 23, 1998, when this trust account was closed, it was out of trust by \$6,851.00. See Mr. Calaman's Report at p. 17.

13. With respect to the Arthur C. Randlett, PA, General Client Trust Account, Citizens Bank, Account #33037-052-5, there were twenty-nine separate transactions in which Mr. Randlett's inattention to his fiduciary obligations to his clients resulted in unauthorized withdrawals from the account, unauthorized disbursements to himself, client overdrafts, and/or out of trust situations. See Mr. Calaman's Report at pp. 18-42. There were also eleven separate cash disbursements from this account which went directly to Mr. Randlett or his firm without identifying characteristics as to the purpose of the disbursement and/or the client involved. These disbursements totaled \$18,971.06. See Mr. Calaman's Report at pp. 33-34.
14. With respect to the Arthur C. Randlett, PA, Operating Account, Community Bank and Trust, Account #0001103288, there were numerous instances in which Mr. Randlett failed to safeguard client funds. See Mr. Calaman's Report at pp. 36-42. In twenty-three instances Mr. Randlett placed retainer payments from clients directly into this operating account rather than into a client trust account. See Mr. Calaman's Report at pp. 36-37.
15. There were numerous other instances where Mr. Randlett had to make refunds to clients from his operating account in order to cover out of trust discrepancies. See Mr. Calaman's Report at pp. 37-41.
16. Mr. Randlett failed to properly safeguard funds related to the Estate of Anna Eaton. Mr. Randlett failed to deposit a check in the amount of \$8,380.00, written to the Estate, into his client trust account. Rather, Mr. Randlett attempted improperly to deposit it into his operating account. The Bank would not permit Mr. Randlett to do so. Thereafter, Mr. Randlett did not send the check to the client for deposit into the Estate account. At the time that Mr. Calaman reviewed the file, this check was still in the file. See Mr. Calaman's Report at pp. 39-42.

17. The letterhead Mr. Randlett began using in 2000 was misleading. Although Mr. Randlett practiced law as a sole practitioner, he used letterhead that falsely implied he was in partnership with Craig Saloman. The letterhead read "Saloman & Randlett, Attorneys at Law."
18. On the basis of Mr. Calaman's Report, the Committee issued a Complaint against Mr. Randlett dated September 4, 2003. That Complaint detailed the allegations contained in Mr. Calaman's Report, and notified Mr. Randlett of the alleged violations of the Rules of Professional Conduct. Mr. Randlett's reply to the Committee's letter of Complaint was due on October 6, 2003.
19. By letter dated October 7, 2003, James L. DeHart informed Mr. Randlett that the Committee had not received his reply and instructed him to give the matter his immediate attention. That letter placed Mr. Randlett on notice that his failure to immediately file an answer to the Committee's letter of Complaint dated September 4, 2003, would result in a Notice of Charges on the issue of his failure to cooperate.
20. To date, Mr. Randlett has not replied to the Committee's letter of Complaint dated September 4, 2003.

Rulings of Law # 03-086

The above listed facts having been found by clear and convincing evidence, the Professional Conduct Committee concludes that there is clear and convincing evidence that Arthur C. Randlett violated the following Rules of Professional Conduct:

1. Mr. Randlett provided representation to the Estate of Annie Gilman. See Mr. Calaman's Report at pp. 22-26. As part of his duties, he was required to file accounting documents with the Rockingham County Probate Court on behalf of the Estate. As detailed in Mr. Calaman's Report, Mr. Randlett repeatedly neglected this obligation. Those accounting documents which Mr. Randlett

submitted to the Probate Court on behalf of the Estate contained clerical errors, were inconsistent with other accounting documents related to the Estate, and were, at times, incomplete. The Probate Court repeatedly issued citations, notices of default, and fines for these late and/or incomplete filings.

2. As part of Mr. Randlett's representation of the Gilman Estate, Mr. Randlett was also required to file the Estate tax returns. As detailed in Mr. Calaman's Report, Mr. Randlett neglected to file these returns properly and in a timely manner. See Mr. Calaman's Report at pp. 22-26.
3. Mr. Randlett also provided representation to the Estate of Anna Eaton. See Mr. Calaman's Report at pp. 39-41. As part of his duties as attorney for the Estate of Anna Eaton, Mr. Randlett was required to file accounting documents with the Rockingham County Probate Court. Mr. Randlett failed to file the Eaton Estate's "Third Accounting" in a timely manner. It was only after the Probate Court notified Mr. Randlett that he was in default with respect to that filing that he filed the "Third Accounting."
4. On June 21, 2002, Mr. Randlett filed the Estate's "Fourth Accounting." On June 27, 2002, the Probate Court returned the document to Mr. Randlett because it contained numerous errors, and the Probate Court ordered Mr. Randlett to re-file the document on or before August 30, 2002. Mr. Randlett failed to re-file the document by the deadline. Rather, he re-filed it on March 14, 2003.
5. Ralph Eaton, the administrator of the Eaton Estate, had to hire subsequent counsel to assist in correcting the problems Mr. Randlett created while representing the Eaton Estate. See Mr. Calaman's Report at p. 41.
6. Mr. Randlett's failure to file accurate, complete and timely accounting and tax documents on behalf of the Gilman and Eaton Estates constitutes clear and convincing evidence of a lack of competence and diligence in violation of N.H. R. Prof. Conduct 1.1(a), 1.1(b)(2), 1.1(c)(4), 1.3(a), and 1.3(b).

7. Mr. Randlett failed in many instances to keep his clients reasonably informed regarding the status of their cases and failed to comply promptly with their reasonable requests for information about their cases.
8. One of Mr. Randlett's clients, Thomas Weeks, hired Mr. Randlett to represent him in a divorce and, on October 10, 2000, gave Mr. Randlett a \$730.00 retainer. During January 2001, Mr. Weeks became frustrated with Mr. Randlett and fired him. Mr. Weeks then requested that Mr. Randlett provide him with an accounting of the time spent on his case and a return of the balance of the retainer funds. Mr. Randlett failed to respond to Mr. Weeks' request for this information.
9. Mr. Weeks then hired a different attorney, Mae Bradshaw, in an effort to persuade Mr. Randlett to provide the information and return his funds. On July 18, 2001, after many failed attempts to obtain the information from Mr. Randlett, Attorney Bradshaw contacted Mr. Randlett and informed Mr. Randlett that Mr. Weeks had authorized her to sue Mr. Randlett if Mr. Randlett did not immediately send her an itemized bill and refund. One week later, Mr. Randlett finally complied with Attorney Bradshaw's demands.
10. Mr. Randlett's client, Joanna Kim, found it necessary to sue him in Hampton District Court to force him to provide her with a proper accounting of funds in her case and to issue funds due her. Ms. Kim filed that lawsuit on April 27, 2001. The Hampton District Court docketed the matter as case #01-SC-207. The court documents indicate that Mr. Randlett received a sum of money on behalf of Ms. Kim resulting from a claim. Mr. Randlett was supposed to remit the balance of funds (\$1,300.00) to Ms. Kim after deducting his contracted portion. He did not do so. He remitted the funds to Ms. Kim only after the Hampton District Court ordered him to do so pursuant to Ms. Kim's lawsuit. In its order, the Hampton District Court also ordered Mr. Randlett to pay Ms. Kim's court costs.
11. Mr. Randlett represented James Boynton at a November 26, 2002, closing on the refinancing of a mortgage. Mr. Boynton attempted to contact Mr. Randlett after he

learned Mr. Randlett had not made loan payments due to the Bank of America after the closing. After Mr. Randlett avoided many of Mr. Boynton's telephone calls, Mr. Randlett assured Mr. Boynton, through his legal secretary, Gillian Gould, that the non-payments were a misunderstanding and would be cleared up. Contrary to Mr. Randlett's assurances to Mr. Boynton, he did not take any action, and the Bank of America hired a law firm to proceed with a foreclosure sale.

12. As detailed above, Mr. Randlett's failure both to communicate with his clients and keep them reasonably informed regarding the status of their cases and to promptly comply with their reasonable requests for information constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.4(a).
13. As detailed above, Mr. Randlett's failure to keep his clients reasonably informed by giving them information relevant to protect their interests at an appropriate time and in an appropriate manner constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.4(c).
14. As of July 31, 2003, Mr. Randlett's books and records show that he was out of trust by as much as \$188,770.99, that he has been out of trust intermittently since 1996, and constantly since the beginning of 1998.
15. Mr. Randlett failed to safeguard the assets of his clients which were entrusted to his care over a long period of time. At times, he actively misappropriated funds by failing to deposit client retainers into trust, and by withdrawing funds from his client trust accounts for his own use prior to those funds being earned and without proper authorization. See generally Mr. Calaman's Report.
16. Mr. Randlett's failures to safeguard his clients' property constitute clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.15(a)(1).
17. Mr. Randlett did not maintain his accounting records in accordance with New Hampshire Supreme Court Rules. Although Mr. Randlett's bank account statements were reconciled to the checkbook balances periodically from the beginning of the audit (January 1, 1997) through the end of the audit (May 31,

2003), at no time was a listing of client balances prepared to compare with the reconciled checkbook balances in accordance with New Hampshire Supreme Court Rule 50.

18. Mr. Randlett failed to maintain a complete and accurate set of financial records from June 1, 2001 through the end of the audit (May 31, 2003).
19. Mr. Randlett's failures to keep proper records in this regard constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 1.15(a)(2), as well as N.H. Sup. Ct. R. 50(2)A, C and F.
20. Throughout the audit period, Mr. Randlett made material misrepresentations on the Annual Trust Accounting Compliance Certificates filed with the New Hampshire Supreme Court with respect to question six, which asks: "At all times since filing your last certificate, did the balance of funds in your clients' trust account equal or exceed the obligations you owed to your clients with respect to such accounts?" In each instance, Mr. Randlett answered the question in the affirmative when he knew that was not the case.
21. Mr. Randlett made material misrepresentations on the Annual Trust Accounting Compliance Certificates filed with the New Hampshire Supreme Court in 2001 and 2002 with respect to questions 7(a) and 7(b), regarding the maintenance of an attorney trust accounting system. At the beginning of Mr. Calaman's audit, Mr. Randlett admitted to Mr. Calaman that he had not maintained his trust accounting records since May 31, 2001. However, on the Trust Certificate filed with the New Hampshire Supreme Court for 2001 and 2002, Mr. Randlett indicated that his accounting system was in complete compliance with the appropriate rules. In each instance, Mr. Randlett knew that was not the case.
22. Mr. Randlett's material misrepresentations on his Annual Trust Accounting Compliance Certificates constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 3.3(a)(1).

23. Mr. Randlett knew of the misrepresentations and failed to take any remedial measures. This failure constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 3.3(a)(3).
24. Mr. Randlett filed misleading documents with the Rockingham County Probate Court regarding the distribution of assets in the matter of the Estate of Annie Gilman. See Mr. Calaman's Report at pp. 22-26.
25. With respect to Mr. Randlett's representation of the Estate of Annie Gilman, Mr. Randlett filed a "Second Accounting" with the Probate Court on September 4, 1998. In that pleading, Mr. Randlett made material misrepresentations about taxes due on the Estate when he stated that, after discussions with the New Hampshire Department of Revenue, the Department determined that inheritance taxes need not be paid. Mr. Randlett also stated that all required state and federal income taxes had been paid. Mr. Randlett knew that these statements were false. See Mr. Calaman's Report at pp. 23-24.
26. The misrepresentations Mr. Randlett included in the September 4, 1998 pleading filed in Probate Court on behalf of the Gilman Estate constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 3.3(a)(1).
27. Mr. Randlett knew of this misrepresentation and failed to take any remedial measures. Mr. Randlett's failure to take remedial measures with respect to this pleading constitutes clear and convincing evidence of a violation of Rule 3.3(a)(3).
28. As part of Mr. Randlett's representation of the Estate of Annie Gilman, Mr. Randlett corresponded with the New Hampshire Department of Revenue regarding the Estate. See Mr. Calaman's Report at pp. 22-26. On March 29, 2000, Mr. Randlett wrote a letter to the Department of Revenue that contained misleading statements about the Estate's request for a waiver of penalties and interest for the taxes due on the Estate. These misleading statements were material to the question of whether the Estate could show "good cause" for a late filing of the tax return. See Mr. Calaman's Report at pp. 22-24.

29. The misrepresentations Mr. Randlett included in this March 29, 2000 letter to the Department of Revenue constitute clear and convincing evidence of a violation of N.H. R. Prof. Conduct 4.1(a).
30. Mr. Randlett represented Katherine Boyce on her sale of a piece of real estate. See Mr. Calaman's Report at p. 11. Mr. Randlett received a cash escrow deposit (\$5,000.00) from the buyer, Valerie Bambushu. Mr. Randlett did not place this money into a trust account. Rather, upon receipt, Mr. Randlett disbursed the money to himself. Shortly thereafter, the real estate deal fell through, and Mr. Randlett was required to return the deposit by the end of October 2001. On November 16, 2001, Mr. Randlett falsely told Ms. Bambushu that "the check must have been lost in the mail, so I will stop payment on the original check and issue a replacement." Mr. Randlett made this statement despite knowing that he had never issued such a check.
31. Mr. Randlett's false statement to Ms. Bambushu constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 4.1(a).
32. Mr. Randlett represented Country Pond Fish & Game Club at a real estate closing on August 22, 2001. See Mr. Calaman's Report at p. 8. At the closing, a portion of the proceeds was set aside to pay liens held by the Town of Newton on the property acquired by Mr. Randlett's client. Mr. Randlett did not pay these liens from the proceeds. Despite not making these payments, Mr. Randlett fabricated a letter to the Town, for his client to see, that misled the client into believing that Mr. Randlett had mailed the payments to the Town on August 24, 2001. Thereafter, Mr. Randlett mailed a letter dated November 20, 2001, to the Town, falsely claiming that he had made these payments by check on August 24, 2001, and falsely asserting that his records showed that the Town had never negotiated the check. Mr. Randlett copied his client on this correspondence.
33. Mr. Randlett's misrepresentations to the Town of Newton constitute clear and convincing evidence of a violation of N.H. R. Prof. Conduct 4.1(a).

34. The letterhead Mr. Randlett began using in 2000 was misleading. Although Mr. Randlett practiced law as a sole practitioner, he used letterhead that falsely implied he was in partnership with Craig Saloman. The letterhead read "Saloman & Randlett, Attorneys at Law."
35. Mr. Randlett's use of the "Saloman & Randlett, Attorneys at Law" letterhead constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 7.5(d).
36. Mr. Randlett's failure to respond to the Professional Conduct Committee's letter of Complaint dated September 4, 2003, constitutes clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.1(b).
37. When his clients questioned Mr. Randlett about the status of their cases and funds, Mr. Randlett failed to account for his actions to those clients and, in some instances, Mr. Randlett lied to them.
38. Mr. Randlett represented James Boynton at the closing on his mortgage refinancing. See Mr. Calaman's Report at pp. 35-36. After Mr. Boynton became aware that Mr. Randlett had not made his loan payments to the Bank of America after the closing, Mr. Boynton attempted to telephone Mr. Randlett about the matter. After avoiding Mr. Boynton's telephone calls, Mr. Randlett assured Mr. Boynton, through his legal secretary, Ms. Gould, that it was a misunderstanding that would be corrected.
39. Had Mr. Randlett been truthful with Mr. Boynton, Mr. Randlett would have explained the lack of available funds in the firm's client trust account as the true cause of his failure to make those loan payments. Instead, Mr. Randlett misled Mr. Boynton and told Mr. Boynton, through his legal secretary, that it was a misunderstanding that would be corrected.
40. Mr. Randlett also lied to Mr. Boynton in that Mr. Randlett gave him the impression, through Ms. Gould, that Mr. Randlett would take action to clear up the "misunderstanding." Instead, Mr. Randlett took no action, and the Bank of

America hired a law firm to proceed with the foreclosure on Mr. Boynton's mortgage.

41. Mr. Randlett represented Janet Hansen, the Executrix for the Estate of Annie Gilman. See Mr. Calaman's Report at pp. 22-26. By letter dated August 7, 2000, Mr. Randlett sought Ms. Hansen's signature on an Estate tax return. In that letter, Ms. Hansen is led to believe that the tax return on the Estate had actually been filed "quite some time ago," but the State did not consider the return filed because it had been submitted without Ms. Hansen's signature. That letter also implied that the accruing penalties and interest were somehow a result of that error, i.e., inadvertently filing an unsigned form.
42. Mr. Randlett permitted this letter to be sent to Ms. Hansen despite knowing that he had not filed the Estate tax return. Mr. Randlett was also aware that the accruing penalties and interest were a result of a mistake committed by his own office in failing to deduct from the proceeds of the Estate funds equal to the tax amount that was due.
43. Mr. Randlett represented Ralph Eaton, the administrator of the Estate of Anna Eaton. See Mr. Calaman's Report at pp. 39-42. On June 13, 2002, Mr. Randlett sent a letter to Mr. Eaton. The letter was written on Salomon & Randlett letterhead and was signed by Kimberly Davis for Mr. Randlett. Ms. Davis was Mr. Randlett's bookkeeper and paralegal. In that letter, Mr. Randlett made misrepresentations about the final accounting of the Estate, and he made misrepresentations about matters which he claimed to have discussed with Attorney John Healey, the attorney for Edward Foote, the executor of a related estate.
44. Mr. Randlett represented Country Pond Fish & Game Club at a real estate closing on August 22, 2001. See Mr. Calaman's Report at p. 8. At the closing, a portion of the proceeds was set aside to pay liens held by the Town of Newton on the property acquired by Mr. Randlett's client. Mr. Randlett did not pay these liens

from the proceeds. Despite not making these payments, Mr. Randlett fabricated a letter to the Town, for his client to see, that misled the client into believing that he had mailed the payments to the Town on August 24, 2001. Thereafter, Mr. Randlett mailed a letter dated November 20, 2001, to the Town falsely claiming that he had made these payments by check on August 24, 2001, and falsely asserting that his records showed that the Town had never negotiated the check. Mr. Randlett copied his client on this correspondence.

45. Mr. Randlett's misrepresentations to his clients, as detailed above, constitute clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(c).
46. Mr. Calaman's Report details numerous instances in which Mr. Randlett failed to place client funds into a trust account, failed to safeguard those funds, and failed to return unearned retainer balances to clients. See generally Mr. Calaman's Report. Mr. Calaman's Report also details numerous instances in which Mr. Randlett actively misappropriated client funds by withdrawing funds from client trust accounts for his own use prior to those funds being earned and without proper authorization. See generally Mr. Calaman's Report. Mr. Randlett's misappropriation of client funds constitutes clear and convincing evidence of deceitful conduct in violation of N.H. R. Prof. Conduct 8.4(c).
47. Because there exists clear and convincing evidence of violations of the aforementioned Rules, there is necessarily clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(a).

Sanction

Having made the aforementioned findings and rulings, the Professional Conduct Committee concludes that the appropriate discipline in this matter is disbarment. This sanction is in accord with the purposes of attorney discipline as described by the New Hampshire Supreme Court *See, e.g., Feld's Case*, 149 N.H. 19, 28 (2002). This sanction is also in accord with the ABA Center for Professional Responsibility,

Standards for Imposing Lawyer Sanctions 91991). *See, e.g., Shillen's Case*, 149 N.H. 132, 139 (2003) (noting that although the court has never formally adopted these standards, the court has considered them when imposing sanctions).

Conclusion

For all of the above reasons, the Professional Conduct Committee recommends disbarment of Arthur C. Randlett for violating the New Hampshire Rules of Professional Conduct 1.1(a), 1.1(b)(2), 1.1(c)(4), 1.3(a), 1.3(b), 1.4(a), 1.4(c), 1.15(a)(1), 1.15(a)(2), 1.15(b), 3.3(a)(1), 3.3(a)(3), 4.1(a), 7.5(d), 8.1(b), 8.4(c), N.H. Supreme Court Rule 50(2)A, B, C and F.

Date: 12/14/04

By: Margaret H. Nelson
Margaret H. Nelson, Chair