

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**ORDER**

**LD-2016-0014, In the Matter of Eugene A. DiMariano, Jr., Esquire**

On July 19, 2016, the Professional Conduct Committee (PCC) filed a recommendation that Attorney Eugene A. DiMariano, Jr., be disbarred. The PCC's recommendation was based on a stipulation signed by Attorney DiMariano and Disciplinary Counsel, in which Attorney DiMariano admitted that he had violated numerous Rules of Professional Conduct and conceded that disbarment was the appropriate sanction for his misconduct.

After the PCC filed its recommendation, an order was issued, in accordance with Supreme Court Rule 37(16), suspending Attorney DiMariano on an interim basis, notifying Attorney DiMariano and Disciplinary Counsel of the PCC's recommendation, and advising them to notify the court by August 29, 2016, of any legal or factual issues relating to the PCC's recommendation that they wished the court to review. The order stated that if neither party identified an issue to be reviewed, no further hearing on the PCC's recommendation would be required, and the court could decide the matter based upon the record of the PCC proceedings. Although Attorney DiMariano filed a request for a hearing on the interim suspension, neither he nor Disciplinary Counsel identified any issues relating to the PCC's recommendation that they wished the court to review. Because neither party has identified any issues related to the PCC's recommendation to be reviewed, the court will review the recommendation based upon the record of the PCC proceedings and without further hearing.

In the "Stipulation to Disbarment" filed with the PCC, Attorney DiMariano admitted that he violated the following Rules of Professional Conduct:

1. Rule 1.1, which requires a lawyer to provide competent representation to a client;
2. Rule 1.2, which requires a lawyer to abide by a client's decisions concerning the objectives of representation;
3. Rule 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client;
4. Rule 1.4, which requires a lawyer to keep a client reasonably informed about the status of a matter;
5. Rule 1.15, which requires a lawyer to hold the property of clients and third persons separate from the lawyer's property and in accordance with Supreme Court Rules 50 and 50-A;

6. Rule 3.3, which prohibits a lawyer from knowingly making false statements of fact or law to a tribunal;
7. Rule 8.1(b), which prohibits a lawyer from knowingly making a false statement of material fact in connection with a disciplinary matter;
8. Rule 8.4(c), which prohibits a lawyer from engaging in conduct involving deceit, dishonesty, or misrepresentation; and
9. Rule 8.4(a), which prohibits a lawyer from violating the Rules of Professional Conduct.

Attorney DiMariano stipulated that an audit performed by the Attorney Discipline Office showed that he failed to maintain a client trust account from 2006 to 2010; that during this period he improperly deposited and maintained client funds in his firm's operating account; that he commingled firm funds with client funds on numerous occasions; that he misappropriated client funds in his possession; that after opening a client trust account in 2010, he failed to comply with the requirements of Supreme Court Rules 50 and 50-A regarding trust accounts; that he issued payments from his client trust account for firm operating expenses; and that he was repeatedly out of trust during the audit period.

The court has reviewed the "Stipulation for Disbarment" and the PCC's recommendation that Attorney DiMariano be disbarred. After considering the nature, seriousness, and extent of Attorney DiMariano's misconduct, the court concludes that disbarment is the appropriate sanction in this case. In light of this action, Attorney DiMariano's request for a hearing on his interim suspension is moot.

THEREFORE, the court orders that Eugene A. DiMariano, Jr., be disbarred from the practice of law in New Hampshire. He is hereby assessed all expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter.

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

DATE: August 31, 2016

ATTEST:

  
Eileen Fox, Clerk

Distribution:  
Attorney Discipline Office, 11-047  
Eugene A. DiMariano, Jr., Esquire  
David M. Rothstein, Esquire  
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File