

New Hampshire Supreme Court
Professional Conduct Committee
a committee of the attorney discipline system

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Heather E. Krans, Vice Chair
Elaine Holden,* Vice Chair
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Lawlor, Peter V. advs. Attorney Discipline Office - #16-040

PUBLIC CENSURE AND ORDER ON COSTS

On April 18, 2017, the Professional Conduct Committee (“the Committee”) deliberated the Stipulation as to Facts, Violations and Sanction (“the Stipulation,” attached as **Exhibit A**), and the Agreement to Pay Costs of Disciplinary Matter (attached as **Exhibit B**). Members present included David M. Rothstein, Chair; Heather E. Krans, Vice Chair; Elaine Holden, Vice Chair; Richard H. Darling; David W. McGrath; Mona T. Movafaghi; Georges J. Roy; and Martha Van Oot. Susan R. Chollet; Margaret R. Kerouac; and Caroline K. Leonard were absent. Peter G. Beeson was recused.

The Committee approved the facts as stipulated by clear and convincing evidence. It further found that Peter V. Lawlor’s conduct violated Rules of Professional Conduct 3.3, 8.4(c), and 8.4(a), as stipulated.

The Committee also concluded that a public censure is appropriate. Its sanction is in accord with the purposes of attorney discipline. *See e.g., Conner’s Case* 158 N.H. 299, 303 (2009); *Richmond’s Case*, 152 N.H. 155, 159-60 (2005). The sanction is also in accord with the *ABA Standards for Imposing Lawyer Sanctions* (2005) (“Standards”).

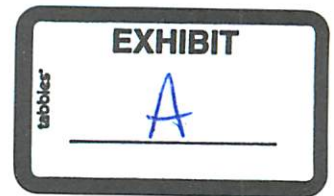
Having approved the stipulated sanction, the Committee approved the agreement that Mr. Lawlor shall reimburse the Committee for all costs of investigation and prosecution of this matter.

April 18, 2017



David M. Rothstein
Chair

cc: Mark P. Cornell, Assistant General Counsel
Russell F. Hilliard, Esquire
File



**NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE**

Lawlor, Peter V.

advs.

Attorney Discipline Office

#16-040

**STIPULATION AS TO FACTS, VIOLATIONS,
AND SANCTION**

Respondent Peter V. Lawlor, Esq., and the Attorney Discipline Office (ADO) stipulate to the following facts and recommend a public censure as set forth below:

I. Facts

1. Mr. Lawlor is an attorney licensed to practice law in New Hampshire. He was admitted to practice in 1985.
2. Mr. Lawlor was admitted to practice in Massachusetts in 1983. His status there is active.
3. Mr. Lawlor has one prior disciplinary matter. Mr. Lawlor received a reprimand in 1995 for failing to attend to details in a case and failing to communicate with a client.
4. By letter dated October 13, 2016, Judge Mark F. Weaver filed a referral with the ADO based on Mr. Lawlor signing three documents with his client's name, but failing to indicate that he signed the

client's name. Mr. Lawlor also witnessed one of these signatures and notarized another one of the signatures. Mr. Lawlor had his client's consent to sign her name. Mr. Lawlor waived the Complaint Screening Committee process and this case was referred to Disciplinary Counsel on November 30, 2016.

5. Mr. Lawlor represented Joan Fontaine in the probate estate of John Kazarosian. The Petition for Estate Administration was filed on March 31, 2015. Ms. Fontaine was appointed the administrator of the estate and is the sole beneficiary under the decedent's will. The administration was filed in the 10th Circuit, Probate Division, Brentwood, Docket # 318-2015-ET-454.
6. Ms. Fontaine is an elderly woman who had difficulty traveling outside of her home without assistance.
7. Mr. Lawlor signed his client's name on three occasion between May 15 and June 1, 2015.
8. On or around May 15, 2016, Mr. Lawlor signed a fiduciary bond in the amount of \$500,000 on behalf of his client and also signed the bond as a witness to his client's supposed signature. Prior to signing his client's name on the bond, Mr. Lawlor obtained his client's oral permission to sign her name. There was no indication on the fiduciary bond that Mr. Lawlor had signed for his client, such as "Joan Fontaine, by Peter Lawlor". The fiduciary bond was filed with the Court.

9. On or around June 1, 2016, Mr. Lawlor signed Ms. Fontaine's name on the Executor's/Administrator's Accounting. Again, this was done with his client's oral permission, but there was no indication on the Accounting that the signature was made by Mr. Lawlor, with Ms. Fontaine's consent. Mr. Lawlor then signed the jurat on the Accounting, acknowledging Ms. Fountaine's supposed signature. The jurat states "This instrument was acknowledged before me on 6/1/2016 by Joan Fontaine." The Accounting was then filed with the probate division.
10. Also on or around June 1, 2016, Mr. Lawlor signed Ms. Fontaine's name to an Assent to the First Account that was filed with the probate division. Again, although Mr. Lawlor had obtained his client's oral permission to sign the Assent on her behalf, there was no indication on the document that he signed on behalf of is client.
11. The staff at the clerk's office noticed the discrepancy between Ms. Fontaine's signatures on the above three documents and other documents on file in the probate case. On September 7, 2016, the Court (Hon. Mark Weaver presiding) held a hearing to investigate the discrepancy. Mr. Lawlor, Ms. Fontaine, and Ms. Rosa (Ms. Fontaine's niece) attended the hearing.
12. At the hearing, Mr. Lawlor readily acknowledged that he had signed all three of the documents at issue on behalf of his client, with his client's permission, and to accommodate her as a convenience given

the difficulty she had travelling to his office. He also admitted signing as a witness on the fiduciary bond and signing as the notarial officer on the Accounting.

13. The Court entered an order removing Mr. Lawlor as attorney for the estate, disallowing all of his compensation in the case, and referring the matter to the ADO.
14. Mr. Lawlor signed his client's name because his client was not able to travel to his office to sign the documents, there was a deadline to submit the documents to the Court, and she had requested he sign for her as an accommodation. Mr. Lawlor immediately accepted responsibility for his actions at the hearing before Judge Weaver and in his dealings with the ADO.
15. Nonetheless, Mr. Lawlor has acknowledged that his actions in signing his client's name were wrong and that he understands the importance of the jurat.

II. Disciplinary Rules Violated

16. The parties agree that Mr. Lawlor's conduct in this case involves violations of the New Hampshire Rules of Professional Conduct, as follows:

Rule 3.3 (Candor Toward the Tribunal)

17. The facts set forth at ¶¶ 1-16 above are incorporated by reference.
18. Rule 3.3 states in pertinent part:

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

19. Mr. Lawlor violated Rule 3.3(a) when he signed his client's name to three documents without indicating he was doing so; when he signed as a witness to one of those documents, falsely representing that he had witnessed Ms. Fontaine sign that document; and when he notarized one of those documents, falsely representing that the document had been signed and acknowledged by Ms. Fontaine.

Rule 8.4(c) (Misconduct)

20. Rule 8.4(c) states in pertinent part:

It is professional misconduct for a lawyer to:

- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

21. Mr. Lawlor misrepresented to the Court that his client had signed the above documents when he filed the documents with the Court, in violation Rule 8.4(c).

22. There was no deceit or dishonesty with regard to the client. Mr. Lawlor was not engaged in self-dealing and he had no personal gain of personal motive involved. Nonetheless, there was a misrepresentation to the Court.

Rule 8.4(a): General Rule

23. Having found the foregoing violation, there is clear and convincing evidence that Mr. Lawlor's conduct, as described herein, violated N.H. R. Prof. Conduct 8.4(a).

III. Recommended Sanction

24. The Attorney Discipline Office and Mr. Lawlor jointly recommend a censure as the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.
25. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.
26. The purpose of the Court's disciplinary power is "protecting the public, maintaining public confidence in the bar, preserving the integrity of the legal profession, and preventing similar conduct in the future." *Conner's Case*, 158 N.H. 299, 303 (2009). "The sanction...must take into account the severity of the misconduct." *Coffey's Case*, 152 N.H. 503, 513 (2005).
27. Although the Court has not adopted the *Standards*, it looks to them for guidance. *Conner's Case*, 158 N.H. at 303. The *Standards* set forth a four-part analysis for courts to consider in imposing sanctions: "(a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d)

the existence of aggravating or mitigating factors.” *Id.* (quoting *Douglas’ Case*, 156 N.H. 613, 621 (2007)); *Standards* § 3.0.

28. The first three parts of the analysis create the framework for characterizing the misconduct and determining a baseline sanction. *See Conner’s Case*, 158 N.H. at 303. Once the baseline sanction is determined, the Court then looks to the fourth and final part of the analysis: the existence of any aggravating or mitigating factors and whether they affect the baseline sanction. *See id.*
29. Under the first prong of the analysis, Mr. Lawlor violated duties owed to the legal system.
30. With respect to Mr. Lawlor’s mental state under the second prong of the sanction analysis, the parties agree that Mr. Lawlor’s mental state was knowing.
31. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Mr. Lawlor’s misconduct.
32. Mr. Lawlor’s conduct did not cause any actual injury to any person. However, there was potential harm that could have occurred.
33. Mr. Lawlor’s violations of Rule 3.3 and 8.4(c) both implicate Section 6.1 (False Statements, Fraud and Misrepresentation) of the *Standards*, which provides as follows:

6.1 False Statements, Fraud, and Misrepresentation

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving conduct that is prejudicial to the administration of

justice or that involves dishonesty, fraud, deceit, or misrepresentation to a court:

6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.13 Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.14 Admonition is generally appropriate when a lawyer engages in an isolated instance of neglect in determining whether submitted statements or documents are false or in failing to disclose material information upon learning of its falsity, and causes little or no actual or potential injury to a party, or causes little or no adverse or potentially adverse effect on the legal proceeding.

34. Under the foregoing circumstances, the parties agree that the baseline sanction for Mr. Lawlor's conduct is a suspension. *See Standards* § 6.12.
35. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.

36. In this case, the only aggravating factor is Mr. Lawlor's substantial experience in the practice of law. *See Standards* § 9.22. There are five mitigating factors: absence of a dishonest or selfish motive, full and free disclosure to the ADO, remorse, remoteness of prior offenses, and the imposition of other penalties or sanctions. *See Standards* § 9.32.
37. The parties agree that the mitigating factors evident in this case outweigh the aggravating factors and warrant a downward departure to a public censure as the appropriate sanction.

IV. Costs

38. Subject to the PCC's approval of Mr. Lawlor's Stipulation, Mr. Lawlor agrees to pay the costs incurred by the ADO in the investigation and enforcement of this disciplinary matter. *See Supreme Court Rule* 37(19). His agreement to pay the costs incurred by the ADO is the subject of a separate agreement signed by Mr. Lawlor.

V. Effect of Stipulation

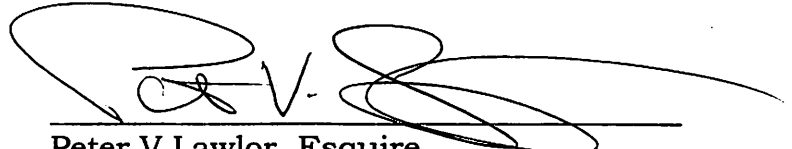
39. Mr. Lawlor understands that this Stipulation will be reviewed by the PCC pursuant to Sup. Ct. R. 37A(III)(aa).
40. Mr. Lawlor acknowledges that the admissions of misconduct and the proposed disposition contained in this Stipulation are freely, knowingly, and voluntarily submitted; that he is not entering this

Stipulation as a result of any threats, coercion, or duress, or of any promises or inducements not set forth in the Stipulation; and that he is fully aware of the consequences of the Stipulation.

41. Mr. Lawlor knowingly and intelligently waives his right to a hearing.


Respectfully submitted,

Dated: March 16, 2017




Peter V Lawlor, Esquire
Respondent

Dated: March 21 2017

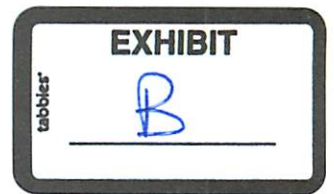


Russell Hilliard, Esquire
Counsel for the Respondent

Dated: March 22, 2017



Mark P. Cornell
Assistant General Counsel



**NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE**

Lawlor, Peter V.

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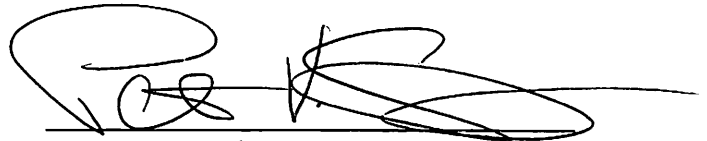
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**AGREEMENT TO PAY COSTS
OF DISCIPLINARY MATTER**

1. Subject to the Professional Conduct Committee's approval of the Stipulation as to Facts, Violations, and Sanction in the above matter, I agree to pay the expenses incurred by the Committee in the investigation and enforcement of this disciplinary matter. See Sup. Ct. R. 37(19)(b). Costs can include, but are not limited to: mileage, stenographers, transcripts, copying, inventory, audit expenses and publication.
2. As of March 16, 2017, I have been informed that the costs are approximately \$6.50. I agree to pay this sum within ninety (90) days after receipt of a bill.
3. I waive the provisions of Supreme Court Rule 37(19)(b) regarding any further detail of the nature and amount of each expense, and I also waive formal demand for payment.

4. I understand and agree that the assessment of costs is deemed final and shall have the full force and effect of a civil judgment. As a result, it may be enforced in any Superior Court in New Hampshire.
5. I agree to pay these costs, and should further costs accrue in this disposition of this matter, the committee will bill me for these costs. If I dispute the bill, I shall notify the committee of the specific nature of the dispute in writing within thirty days of my receipt of the bill. The committee will consider the disputed item and issue a written decision in writing. If I do not notify the committee that I dispute the bill, payment will be due upon its receipt.
6. The Committee may file a copy of the final assessment with the superior court in any county in the state, where it shall be docketed as a final judgment and shall be subject to all legally-available post-judgment enforcement remedies and procedures. See Sup. Ct. R. 37(19)(c).
7. I also agree to be responsible for all reasonable costs incurred as a result of the Attorney Discipline Office's collection efforts.

Respectfully submitted,



Peter V. Lawlor
Respondent

Dated: March 16, 2017