

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2017-0009, In the Matter of David A. Horan, Esquire

On July 19, 2017, the Professional Conduct Committee (PCC) filed a recommendation that Attorney David A. Horan be disbarred. The PCC's recommendation was based on a stipulation signed by Attorney Horan and Disciplinary Counsel, in which Attorney Horan admitted that he had violated numerous Rules of Professional Conduct and conceded that disbarment was the appropriate sanction for his misconduct. In the stipulation, Attorney Horan expressly waived his procedural rights under Supreme Court Rule 37 and 37A, including his rights under Rule 37(16) to be served with the PCC's recommendation and to be heard on the recommendation prior to the imposition of discipline. Because the PCC's recommendation was based on the stipulation agreed to by both Attorney Horan and Disciplinary Counsel as to Attorney Horan's violations of the Rules of Professional Conduct and the appropriate discipline for the violations, and because Attorney Horan has waived his rights under Rule 37(16), the court concludes that it is unnecessary to serve Attorney Horan with the PCC's recommendation or to provide an opportunity to be heard on the PCC's recommendation.

In the "Stipulation to Disbarment" approved by the PCC, Attorney Horan admitted that he made unauthorized withdrawals from his client trust account, misappropriated client funds, commingled personal funds and client funds, and failed to maintain his trust account in accordance with the requirements of Rule 50. He conceded that his conduct violated the following Rules of Professional Conduct:

1. Rule 1.1, which requires a lawyer to provide competent representation to a client;
2. Rule 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client;
3. Rule 1.15, which requires a lawyer to safeguard the property of a client, and Supreme Court Rule 50, which imposes certain requirements on lawyers regarding trust accounts;
4. Rule 3.3, which prohibits a lawyer from knowingly making false statements to a tribunal; and

5. Rule 8.4(c), which makes it professional misconduct for a lawyer to engage in conduct involving dishonesty.

The court has reviewed the "Stipulation to Disbarment" and the PCC's recommendation that Attorney Horan be disbarred. After considering the nature, seriousness, and extent of Attorney Horan's misconduct, the court concludes that disbarment is the appropriate sanction in this case.

THEREFORE, the court orders that David A. Horan be disbarred from the practice of law in New Hampshire. He is hereby assessed all expenses incurred by the PCC in the investigation and prosecution of this matter.

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

DATE: July 21, 2017

ATTEST:



Eileen Fox, Clerk

Distribution:

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- David M. Rothstein, Esquire
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