

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. LD-2015-0013, In the Matter of Evan A. Greene, Esquire, the court on September 29, 2017, issued the following order:

On December 14, 2016, the Attorney Discipline Office (ADO) filed a certified copy of the December 2, 2016 opinion of the Massachusetts Supreme Judicial Court (SJC) issued in the disciplinary proceeding involving Attorney Evan A. Greene, affirming an order of a single justice of the court suspending Greene from the practice of law in Massachusetts indefinitely. New Hampshire Supreme Court Rule 37(12), which sets forth the procedure to be followed in reciprocal discipline cases, calls for us to impose identical or substantially similar discipline unless we determine, among other things, that “[t]he misconduct established warrants substantially different discipline in this State.” Sup. Ct. R. 37(12)(d)(3).

After receiving the SJC opinion, we issued an order giving Greene and the Professional Conduct Committee (PCC) an opportunity to address whether the imposition of identical or substantially similar discipline would be unwarranted. Greene represented that substantially similar discipline was appropriate. The PCC, however, stated that, pursuant to New Hampshire law, Greene’s actions warranted substantially different discipline; it recommended that he be disbarred in New Hampshire.

The PCC argues that disbaring Greene is consistent with the ABA Standards for Imposing Lawyer Sanctions (2005), which we have used for guidance in other cases. See, e.g., O’Meara’s Case, 164 N.H. 170, 179 (2012). However, the SJC reached its decision on sanctions after extensive process and review of Massachusetts law. A hearing committee of the Massachusetts Board of Bar Overseers (BBO) held five days of evidentiary hearings, at which 12 witnesses, including a number of homeowners, testified and 293 exhibits were admitted. In its 45-page report, the committee compared the facts of this case to numerous prior Massachusetts cases before reaching its recommendation that Greene be indefinitely suspended from the practice of law and be given credit for his prior suspension in this matter by being permitted to seek reinstatement 19 months before he would otherwise be entitled to do so.

Greene appealed the hearing committee’s recommendation. The BBO reviewed the committee’s decision in a 17-page memorandum, in which the BBO also compared the recommended sanction to those issued in numerous other Massachusetts cases. It concluded that it was “compelled by the facts and the

case law to recommend a severe sanction” and voted unanimously to “adopt the findings, conclusions and recommendations of the hearing committee.”

The BBO’s recommendation was then reviewed by a single justice of the SJC, who examined the hearing committee’s findings and conclusions in a 12-page memorandum of decision. After comparing the recommended sanction to Massachusetts case law, the justice concluded, “I am satisfied that an indefinite suspension is the appropriate sanction in this case.”

The SJC then “review[ed] the disciplinary sanction imposed by the single justice de novo, to determine whether it [was] markedly disparate from those ordinarily entered by the various single justices in similar cases.” *In re Greene*, 63 N.E.3d 1113, 1116 (Mass. 2016) (quotation omitted). It concluded that “[n]ot only did [Greene] use his professional training and experience to take advantage of vulnerable homeowners in precarious financial positions, but he also violated Federal law, concealed the nature of the transactions from his lenders and his firm’s clients out of a self-interested motive, and engaged in repeated conflicts of interest.” *Id.* at 1119. It held that, “[c]onsidering all the circumstances, an indefinite suspension is appropriate and necessary to protect the public and deter other attorneys.” *Id.* (quotation omitted).

The PCC argues that New Hampshire case law supports disbaring Greene. However, the PCC acknowledges that this “case presents a unique factual background and there is no New Hampshire case law directly on point.” Furthermore, the transactions for which Greene was sanctioned took place in Massachusetts and involved Massachusetts real estate owned by citizens of Massachusetts. As a matter of comity, we decline to impose a more severe sanction than Massachusetts found appropriate in this case.

Although New Hampshire does not provide for an indefinite suspension, during oral argument, the parties agreed that a suspension for five years is “substantially similar” to an indefinite suspension. Accordingly, we order that Evan A. Greene is suspended from the practice of law in New Hampshire for a period of five years with credit for all time that he has been suspended in New Hampshire in connection with case numbers LD-2011-0009 and LD-2015-0013. Greene’s readmission is conditioned upon proof that he has been reinstated to practice law in Massachusetts.

Greene shall comply with Supreme Court Rule 37(13)(b) and shall notify, by registered or certified mail, return receipt requested, each client who is involved in litigated matters or administrative proceedings in New Hampshire, and the attorney or attorneys for each adverse party in such matter or proceeding, of his suspension and consequent inability to act as an attorney after the date of this order.

Greene shall comply with Supreme Court Rule 37(13)(d) and shall file with the court, within 30 days of the date of this order, an affidavit showing that he has: (1) fully complied with the provisions of this order and with Supreme Court Rule 37(13); and (2) served a copy of such affidavit upon the PCC.

Any motion for reinstatement will be governed by Supreme Court Rule 37(14)(a)-(e). Greene is hereby assessed all expenses incurred by the PCC in the investigation and prosecution of this matter. See Sup. Ct. R. 37(19).

So ordered.

HICKS, LYNN, and BASSETT, JJ., concurred.

**Eileen Fox,
Clerk**