

New Hampshire Supreme Court

Professional Conduct Committee

a committee of the attorney discipline system

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Peter G. Beeson
Margaret R. Kerouac

4 Chenell Drive, Suite 102
Concord, New Hampshire 03301
603-224-5828 ♦ Fax 228-9511

Caroline K. Leonard
Mona T. Movafaghi
Edward D. Philpot, Jr.
Georges J. Roy*
Martha Van Oot
* non attorney member
Barbara J. Guay, Legal Assistant

DiBlasi, Joseph P. advs. Attorney Discipline Office, # 17-013

ORDER ON REVISED STIPULATION

Joseph P. DiBlasi and the Attorney Discipline Office (“ADO”) submitted a stipulation to a reprimand. The Professional Conduct Committee (“the Committee”) deliberated the stipulation at its January 16, 2018 meeting. By order dated January 18, 2018, the Committee rejected the stipulation, but offered the parties the opportunity to submit a revised stipulation or request oral argument.

The parties submitted a revised stipulation on February 15, 2018, and the Committee held oral argument on March 20, 2018. Margaret Kerouac was recused. Peter Beeson and Edward Philpot were absent and did not participate.

The Committee approves the revised stipulation and imposes the sanction of a reprimand.

Mr. DiBlasi has been an attorney in good standing in Massachusetts since 1992. He was admitted to the New Hampshire Bar in 2009. He has no disciplinary history. For several years, Mr. DiBlasi complied with New Hampshire's Minimum Continuing Legal Education ("MCLE") requirements by attending CLE's and certifying his attendance.

In 2015, New Hampshire adopted the Attorney Reporting Tool ("ART") for the recording of CLE compliance. Through ART, an attorney enters the CLE's the attorney has attended, and the certifications of attendance. Mr. DiBlasi believed that when New Hampshire switched to ART, it was adopting a system like that in Massachusetts, where an attorney can apparently satisfy the MCLE requirement by purchasing materials for download and reviewing them at the attorney's convenience. Thus, for the reporting years of 2014-15, and 2015-16, Mr. DiBlasi purchased CLE courses sponsored by the New Hampshire Bar, had them entered in his ART account, and certified, pursuant to Supreme Court Rule 53, that he had complied with his MCLE obligation. Mr. DiBlasi's erroneous belief was reinforced by his assistant, and communication that his assistant allegedly had with the New Hampshire Bar Association.

In early 2017, the MCLE Board conducted a random audit of Mr. DiBlasi's compliance for the 2015-16 reporting year. Mr. DiBlasi did not respond to two emails sent by the Board. Instead, he filed the emails for later review, erroneously believing that they were general information emails sent to all Bar members. The Board then sent Mr. DiBlasi a letter on March 16, 2017,

which referred to the prior emails, and requested a response by March 31. Upon receipt of the letter, Mr. DiBlasi attempted to view the courses he had purchased, but the links had expired. Mr. DiBlasi reviewed the written materials associated with the courses, purchased additional courses, and, on March 28, 2017, sent a letter by Federal Express explaining that he had not attended the courses and the reasons for his confusion. The ADO confirmed that Mr. DiBlasi sent the letter before the March 31 deadline, and the letter was delivered to the Board on March 29, the Board referred Mr. DiBlasi's case to the ADO without considering the letter.¹

Mr. DiBlasi stipulated that his conduct violated Rule of Professional Conduct 3.3(a)(1), which provides that “[a] lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact previously made to the tribunal. . . .” He and the ADO stipulated to a sanction of a reprimand, which the Committee rejected. The stipulation, at least arguably, established a baseline sanction of suspension under the ABA Standards. While suspension was not warranted, the Committee was not convinced that a two-level downward departure was justified given that Mr. DiBlasi had admitted to making false statements in documents filed with the Supreme Court. The Committee was also not convinced that the cases cited by the parties supported its request for a reprimand.

¹ The Committee is not implying that the Board would or should have taken any different action in this case had it reviewed the letter.

The revised stipulation and oral argument shed new light on the case. The parties argued that the baseline sanction is a public censure. Two factors supported this conclusion. One, suspension applies where the respondent took no remedial action. *Standards* § 6.12. Mr. DiBlasi, having discovered his errors, attempted to remedy them. Thus, the elements of the suspension baseline sanction were not met. Two, Mr. DiBlasi's conduct had both knowing and negligent features. While his act of filing the false affidavit was knowing, Mr. DiBlasi misunderstood the impact of the adoption of ART. The parties assert, and the Committee agrees, that Mr. DiBlasi's conduct was negligent as well as knowing. That feature brings into play ABA Standard § 6.13, which applies "when a lawyer is negligent either in determining whether statements are false or in taking remedial action," and establishes a baseline sanction of public censure under New Hampshire's rules. The parties asserted, and the Committee agrees, that public censure is a more appropriate baseline sanction in this case. A reprimand is a one-step departure, which is justified based on Mr. DiBlasi's lack of disciplinary history, and other factors.

In other jurisdictions, cases resulting in more severe sanctions for similar conduct tended to have aggravating factors not present in this case, such as lying to conceal the false filing. Mr. DiBlasi had complied with the MCLE requirements for several years, admitted his error in his letter, and made efforts at remediation.

The Committee concludes that because the baseline sanction is public censure, Mr. DiBiasi has no disciplinary history, he was confused about the changes made when ART went into effect, he made no effort to evade the CLE requirement as he understood it, and he admitted to his misconduct in his letter to the MCLE Board, a departure to a reprimand is warranted. That sanction is imposed.

3/26/18
Date



David M. Rothstein, Chair
Professional Conduct Committee

cc: Elizabeth M. Murphy, Assistant Disciplinary Counsel
Maureen D. Smith, Esquire
File

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

DiBlasi, Joseph P.

advs.

Attorney Discipline Office

#17-013

**REVISED STIPULATION AS TO FACTS, VIOLATIONS,
AND SANCTION: REPRIMAND**

The Respondent, Joseph P. DiBlasi, Esq. ("Mr. DiBlasi"), and the Attorney Discipline Office ("ADO") stipulate as follows:

I. Facts

A. Respondent's Background

1. Mr. DiBlasi is a sole practitioner licensed to practice law in Massachusetts and New Hampshire. He was admitted to practice in Massachusetts in 1992 and admitted to the New Hampshire Bar in 2009.
2. At all times material to this proceeding, Mr. DiBlasi operated his law office as DiBlasi Law, 348 Park Street, Suite 201, North Reading, MA 01864, employing one and, on occasion, two part-time assistants.
3. Since 1995, Mr. DiBlasi has conducted his solo practice from his North Reading, Massachusetts office. His practice has consisted primarily of Massachusetts real estate transactions, estate planning and other non-litigation matters. At all times material to this proceeding, Mr. DiBlasi

handled very few New Hampshire matters, consisting primarily of real estate closings.

4. Mr. DiBlasi does not have a disciplinary history in either New Hampshire or Massachusetts.
5. While there are no minimum Continuing Legal Education ("CLE") standards in Massachusetts, Mr. DiBlasi has voluntarily purchased and maintained a library of Massachusetts CLE materials for reference, as needed, has attended Massachusetts CLE courses and is a co-author of a number of self-help legal guides.

B. Factual Background

6. This attorney discipline matter was initiated as a result of correspondence dated May 1, 2017 from the State of New Hampshire Supreme Court Minimum Continuing Education Board ("NHMCLE Board" or "Board") to the ADO ("Referral"). The Referral was made pursuant to Supreme Court Rule 53.7(C), which provides in relevant part: "Should the NHMCLE Board have reasonable grounds to believe that a lawyer has knowingly misstated his or her NHMCLE activity on the Annual Certificate of Compliance With Continuing Legal Education Requirements, the board shall notify the Attorney Discipline Office of the New Hampshire Supreme Court forthwith."
7. The Referral stated that Mr. DiBlasi had filed a false NHMCLE Confirmation of Attorney Affidavit of Compliance with New Hampshire Supreme Court Rule 53 ("Affidavit") for the 2015-16 reporting year because he had not attended four (4) reported courses. The Referral

- alleged that further investigation showed that two (2) courses listed in Mr. DiBlasi's CLE records were not attended during the 2014-15 reporting year. The Referral also alleged that Mr. DiBlasi had not responded to audit committee requests relating to the 2015-16 reporting year and that he had attempted, through his assistant, to amend his CLE records. The Referral stated that written correspondence allegedly sent from Mr. DiBlasi's office to the NHMCLE Board was never received.
8. On May 3, 2017, the ADO notified Mr. DiBlasi of an office-generated complaint ("Complaint") based upon the Referral, and requested a response within thirty (30) days.
 9. On May 26, 2017, Mr. DiBlasi, through counsel, filed a detailed response to the Complaint with supporting documents, including documentation that Mr. DiBlasi had, in fact, delivered by Federal Express a response to the NHMCLE Board's audit letter ("Response") and had received confirmation of the delivery.¹
 10. On July 24, 2017, the Complaint Screening Committee forwarded the matter to Disciplinary Counsel for further action.
 11. Starting in 2009, after he was admitted to the New Hampshire bar, Mr. DiBlasi regularly attended both live and on-line CLEs in New Hampshire and submitted annual certifications, as required under New Hampshire Supreme Court Rule 53.

¹ Upon further inquiry after the PCC's January 18, 2018 order, it appears that the Board may have reviewed the March 28, 2017 response letter sent by Mr. DiBlasi at a later date. However, the Board was not aware of the letter at the time of the May 1, 2017 referral letter.

12. On or about March 2015, Mr. DiBlasi received notification of the impending implementation of the Attorney Reporting Tool ("ART") process for Rule 53 compliance for the reporting year July 1, 2014 to June 30, 2015.
13. Mr. DiBlasi asked his part-time assistant to complete the ART registration process and to purchase sufficient on-line courses for compliance with New Hampshire's 2014-2015 minimum CLE requirements. The courses for the 2014-15 reporting year were purchased in April 2015. The courses were automatically entered into his ART record.
14. In May 2015, Mr. DiBlasi's assistant contacted NHMCLE staff at the New Hampshire Bar Association ("NHMCLE staff") for assistance with completing the ART registration process and subsequently told Mr. DiBlasi that he was "all set." Mr. DiBlasi assumed from his assistant's communication that he was "all set," that he was in compliance with NHMCLE requirements through his recorded purchase of sufficient on-line course materials. The changes implemented through the ART process, in combination with his experience with the Massachusetts CLE system, led him to believe that New Hampshire compliance was now determined by the completed purchase of CLE materials entered into the ART record, which he could view at any time.
15. Mr. DiBlasi did not view two of the on-line courses during the 2014-15 reporting year.

16. As of September 2015, Mr. DiBlasi had not filed his Affidavit for the 2014-15 reporting year. On September 24, 2015, Mr. DiBlasi received an email from the NHCLE office regarding compliance and asked his assistant to contact the office. After speaking with NHCLE staff, Mr. DiBlasi's assistant informed him that he needed to file the Affidavit and pay the required fee, but that he was "good" on credits.
17. On September 28, 2015, Mr. DiBlasi submitted the required fee and filed, on-line, his 2014-15 Affidavit, attesting:

I am familiar with the requirements of the New Hampshire Supreme Court Rule 53; my 2015 NHCLE course entries were qualified, complete, accurate, meet the requirements of SC Rule 53 to the best of my knowledge and that I completed or exceeded the minimum required minutes of continuing legal education as shown on the My Record Page 2014-2015 Reporting Year (including any courses entered to meet my 2014-2015 requirements as shown on the My Record Page, 2015-2016 Reporting Year).
18. In fact, Mr. DiBlasi had not attended two of the courses before filing the Affidavit, having interpreted the term "completed" as completion of purchase. Mr. DiBlasi did not review Supreme Court 53 to substantiate his belief.
19. In May 2016, Mr. DiBlasi had his assistant purchase four more on-line courses from the New Hampshire Bar Association to meet his 2015-16 NHCLE obligations for the reporting year July 1, 2015 to June 30, 2016. At the time of purchase, the four courses were automatically entered into his ART record.
20. On June 22, 2016, Mr. DiBlasi attended a six (6) hour live webcast on estate planning that was accredited in New Hampshire but sponsored as

a Massachusetts CLE. Mr. DiBlasi did not enter the course into his 2015-2016 ART record because he did not know that the course qualified for NHMCLE credits.

21. In July 2016, Mr. DiBlasi received an email from the NHMCLE office, which he forwarded to his assistant for further inquiry. After speaking with NHMCLE staff, Mr. DiBlasi's assistant told him that he just had to file his Affidavit.
22. On July 24, 2016, Mr. DiBlasi filed the Affidavit on-line. Because he had completed his purchase of four accredited courses, as reflected in his ART record, and his assistant told him that the NHMCLE office indicated that he only had to file his Affidavit, he believed, as he had the previous year, that he was in compliance at the time that he filed his Affidavit, when, in fact, he was not.
23. Mr. DiBlasi had not attended or viewed the four on-line courses reflected in his 2015-16 ART record during the 2015-16 reporting year.
24. Beginning in late 2016 or early 2017, the NHMCLE Board began conducting random audits for the 2015-16 reporting year. Mr. DiBlasi was randomly selected for an audit. On January 31, 2017, the Board sent Mr. DiBlasi an email requesting information to verify his compliance with Supreme Court Rule 53. A second email was sent on February 23, 2017 requesting the same information and reminding Mr. DiBlasi of the deadline to submit his audit information. Mr. DiBlasi did not respond to either email.

25. On March 16, 2017, the Chair of the Board's Audit Committee sent Mr. DiBlasi a letter. The letter referenced the January 31, 2017 and February 23, 2017 email communications that had requested submission of certificates of attendance, among other things, for all 2015-16 courses reflected in his ART records. The letter established a March 31, 2017 deadline for response. Mr. DiBlasi received the letter on March 18, 2017.
26. Mr. DiBlasi had not read the January and February 2017 emails, thinking that they were general information emails sent to all Bar members, but had filed them for later review. Upon locating and reviewing the emails, he realized that he was supposed to have attended the on-line courses during the 2015-2016 reporting year, as shown by certificates of attendance.
27. Mr. DiBlasi immediately tried to review the on-line courses but discovered that he could no longer access them. Nonetheless, he downloaded the written materials for each course and reviewed them. He also purchased and attended three additional on-line courses.
28. On March 28, 2017, Mr. DiBlasi sent, by Federal Express, a written response to the Chair of the NHMCLE Board's Audit Committee, with attached records. In the letter, Mr. DiBlasi explained that he had not actually attended the four on-line courses listed in his Affidavit. Mr. DiBlasi also explained his misunderstanding, his unsuccessful attempt to review the on-line courses and his new CLE activity. In relevant part, Mr. DiBlasi explained:

I purchased the programs in May, but the craziness of practice and life took over, including the peak of the real estate schedule, my two sons' baseball seasons, and office vacations. Nevertheless, please know that I did download the materials for these programs and have diligently read them and have learned the information. I'm not sure there is any applicable credit for this, without the certificate of completion, but if not, I have recently purchased and have taken the additional programs and, . . . am attaching all of the requested items for these, including the certificates of completion. It is my understanding that these three programs, together, satisfy the annual CLE requirements. I would request that these latter programs supplement or substitute for the first group of programs for CLE credit for this period, as applicable. Also, if the first set of programs can be extended, I am happy and willing to finish them.

29. The ADO has reviewed a Federal Express confirmation with delivery signature of a March 29, 2017 delivery of Mr. DiBlasi's letter to the NHMCLE Board at Suite 300, 2 Pillsbury Street, Concord, NH 03301 before the expiration of the Audit Committee's March 31, 2017 deadline.
30. After sending the March 28, 2017 letter to the NHMCLE Board's Audit Committee, Mr. DiBlasi sought to clarify his actual CLE activity consistent with his written explanation by asking his assistant to correct his ART records to show which courses he had actually attended, and when.
31. Mr. DiBlasi's assistant was unable to make corrections to previous reporting year ART records and sought assistance from NHMCLE staff in April 2017. When staff inquired as to why the modifications were requested, Mr. DiBlasi's assistant responded that the request was "for late compliance and as explained in Attorney DiBlasi's letter to the audit committee."

32. At the time of the Referral, the NHMCLE Board was not specifically aware of Mr. DiBlasi's March 28, 2017 response.

II. Disciplinary Rules Violated

Rule 3.3: Candor Toward the Tribunal

33. The facts set forth in the paragraphs above are incorporated by reference.
34. Rule 3.3 states in pertinent part as follows: "(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."
35. Mr. DiBlasi had a duty under Rule 3.3(a)(1) not to knowingly make false statements of fact to a tribunal or fail to correct a false statement of material fact previously made to the tribunal.
36. Mr. DiBlasi breached his duty not to knowingly make a false statement of fact to a tribunal when he filed his 2014-15 and 2015-16 NHMCLE Affidavits of Compliance attesting to having "completed or exceeded the minimum required minutes of continuing legal education as shown in the My Record Page . . .," when he had not in fact completed all credit hours and when he certified that he was familiar with Supreme Court Rule 53 without having read that Rule.
37. Remedial steps by Mr. DiBlasi to correct the 2015-16 false certification, including his letter to the MCLE Board, were taken after the NHMCLE Board notified Mr. DiBlasi that he was required to submit course

attendance certificates and Mr. DiBlasi discovered that he could not do so.

38. The parties agree that there is clear and convincing evidence of a violation of Rule 3.3(a)(1).

Rule 8.4(a): General Rule

39. Having found the foregoing violation, there is clear and convincing evidence that Mr. DiBlasi's conduct, as described herein, violated Rule 8.4(a).

III. Recommended Sanction

40. The ADO and Mr. DiBlasi agree that a Reprimand is the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.
41. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction. 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); *Welt's Case*, 136 N.H. 588, 592 (1993). "The sanction ... must take into account the severity of the misconduct." *Coffey's Case*, 152 N.H. 503, 513 (2005), but its purpose is not to inflict punishment. *Coddington's Case*, 155 N.H. 66 (2007).
42. 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*, 155 N.H. 613, 621 (2007)); *Standards* §3.0.

43. 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 (stating that “[i]n applying these factors, the first step is to categorize the respondent’s misconduct and identify the appropriate sanction”). 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.* (stating that “[a]fter determining the sanction, [the Court] consider(s) the effect of any aggravating or mitigating factors on the ultimate sanction”).
44. Under the first prong of the analysis, Mr. DiBlasi violated duties owed to the legal system and as a professional through submission of Affidavits to the Supreme Court’s NHMCLE Board, which were factually incorrect regarding his CLE activity, and regarding his familiarity with Supreme Court Rule 53.
45. With respect to the second prong of the sanction analysis, the *Standards* define the mental state of negligence as “when a lawyer fails to be aware of a substantial risk that circumstances exist or that a result will follow,

which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation.”

46. Rule 1.0(f) of the N.H.R. Prof. Conduct defines “knowingly” as “denot[ing] actual knowledge of the fact[s] in question. A person’s knowledge may be inferred from circumstances.” The *Standards* define “knowledge” as a “conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.” *Standards*, Sec. III (“Definitions”). See also *In Re Wyatt’s Case*, 159 N.H. 285, 307, 982 A.2d 396, 413 (2009) (discussing “knowing” misconduct and stating “[w]hat is relevant . . . is the volitional nature of the respondent’s acts, and not the external pressures that could potentially have hindered his judgment.”).
47. The parties agree that Mr. DiBlasi’s mental state was primarily knowing. Mr. DiBlasi knew or should have known, when filing the Affidavits, that he was attesting to having “completed or exceeded the minimum required minutes of continuing legal education as shown on the My Record Page” The parties also agree that Mr. DiBlasi was negligent in that he hastily filed his Affidavits, without an intent to deceive, and did not pay sufficient attention to the language of his attestation and the underlying Rule 53 requirements. Mr. DiBlasi also negligently relied on his experience with the Massachusetts Bar, which does not impose mandatory CLE requirements, and his assumption that the ART implementation signaled a change in the underlying NHMCLE

- requirements to align with the Massachusetts system, rather than reviewing and fully familiarizing himself with the Supreme Court Rule.
48. Upon realizing his error, Mr. DiBlasi did take reasonable steps to rectify his mistake, consistent with Rule 3.3(a)(1). He sent correspondence and records by Federal Express to the NHMCLE Board on March 28, 2017. He attended additional CLE courses and then attempted, through his assistant, to modify his ART records to show which courses he attended, and when. He did not, and could not, correct his previously filed Affidavits.
49. As to the third prong of the analysis, Mr. DiBlasi's conduct caused potential injury to the profession. There was potential harm to the legal profession in terms of the reliability of representations of lawyers in presenting Affidavits that comply with Court-established rules on lawyers' educational requirements.
50. In conjunction with the foregoing assessment, the *Standards* offer material guidance in determining a baseline sanction. Relevant provisions set forth below appear at *Standards* § 6.1 (False Statements). The provisions of § 6.1 are relevant, in part, even though there is no legal proceeding involving clients, because they relate to false statements, as follows:
- 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 Reprimand² [public censure] 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 Admonition³ [reprimand] 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.

51. The baseline sanction in this case is either a suspension or a public censure. *Standards* §§ 6.12-6.13. Because Mr. DiBlasi acted both knowingly and negligently, public censure is the most appropriate baseline sanction, given that Mr. DiBlasi took reasonable remedial measures. *Standards* § 6.12. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g. Conner's Case*, 158 N.H. at 303.

52. There is one aggravating factor in this case: Mr. DiBlasi's substantial experience in the practice of law. *See Standards* § 9.2.

² Section 6.13 uses the term "Reprimand." The most analogous sanction in New Hampshire is a Public Censure.

³ Section 6.14 uses the term "Admonition." The most analogous sanction in New Hampshire is a Reprimand.

53. Mitigating factors include the following: (a) no prior record of discipline; (b) no dishonest or selfish motive; (c) Mr. DiBlasi made a timely, good faith effort to rectify the consequences of his misconduct; (d) full and free disclosure to disciplinary counsel and a cooperative attitude; and (e) remorse. *See Standards* § 9.3.
54. Mr. DiBlasi's good faith effort to correct his 2015-16 filing, and remedial course attendance, were consistent with Supreme Court Rule 53.3(E). That rule authorizes the NHMCLE Board to determine whether and what type of remedial action applies to a lawyer with an inaccurate or deficient Certification of Completion discovered as a result of a Board audit.
55. Mr. DiBlasi has also met and exceeded the CLE credits required for the 2016-17 NHMCLE reporting year and has obtained certificates of completion for all courses listed in his ART record.
56. In this case, Mr. DiBlasi's conduct was of a limited nature in that all instances of misconduct arose out of Mr. DiBlasi's misunderstanding of the Rule 53 requirements and his failure to familiarize himself with the same. The parties agree that given the baseline sanction, along with the limited nature of the conduct and the mitigating circumstances present in this case, a downward departure to a Reprimand would serve the purposes of discipline and is an appropriate sanction in this case.
57. Although there is New Hampshire case law imposing a public censure for lawyers making false statements, the circumstances of this case are distinguishable. Some cases were based on purposeful efforts to deceive. *See, e.g., Welt's Case*, 136 N.H. 588, 593 (1993) (public censure imposed

for violation of Rule 8.4(c) and other rules by lying to his clients about filing a lawsuit on their behalf; considered isolated instance of misconduct, voluntary efforts to rectify conduct, and other mitigating factors); *O'Meara's Case*, 150 N.H. 158 (1999) (public censure imposed for two false filings with the court, and false accusations about his wife, taking into account the lawyer's personal and emotional problems, lack of disciplinary record and cooperative attitude). In contrast, Mr. DiBlasi did not intend to deceive the NHMCLE Board when he filed his Affidavits.

58. Other cases involve false statements that, although not constituting purposeful misrepresentation, were not corrected by the lawyer. *See, e.g., Carpenito's Case*, 139 N.H.168 (1994) (public censure imposed for failure to correct false statement of material fact in violation of Rule 4.1(a)). While the Court in *Carpenito* considered, but rejected, a sanction of private reprimand (no longer a sanction in New Hampshire) because it "would not adequately protect the integrity of the legal profession, nor would it deter future attorney misconduct," that case involved inappropriate handling of client funds by counsel. Here, unlike counsel in *Carpenito*, Mr. DiBlasi took remedial action and no client funds were mishandled.
59. There is no New Hampshire Supreme Court or Committee precedent involving false certifications of CLE activity. The PCC has determined, however, that a reprimand is appropriate even where there is potential damage to client interests and the integrity of the profession. *See, e.g., Hoppock, Joseph S. advs. ADO*, NHPCC Docket No. 16-027 (PCC

approved stipulated reprimand where mental state was not one of intent and various factors affected attorney's objectivity). In this case, Mr. DiBlasi did not intentionally submit false certifications and made an effort to correct his reported CLE activities, and also took additional CLE courses.

60. Although not specific to CLE compliance, at least one jurisdiction has determined that there is no violation of Rule 3.3(a) at all where a lawyer has taken reasonable remedial measures after learning of the falsity of court filings. *See, e.g., Iowa Supreme Court Attorney Discipline Board v. Crotty*, 891 N.W.2d 455, 464-65 ((2017) (no rule violation where attorney verbally disclosed filed forgeries to court, even though written disclosure and request for further direction from court would have been preferable).
61. In other jurisdictions, sanctions have varied for false reporting with respect to CLE requirements. North Carolina issued a public reprimand to an attorney who had filed a false Annual CLE Report and then knowingly mischaracterized to disciplinary authorities the circumstances surrounding the false submission, resulting in a finding that Rule 8.4(c) had been violated. *See In the Matter of Rachel E. Faultersack*, North Carolina State Bar Grievance Committee, No. 14G0351 (November 12, 2014).⁴ *But see, In the Matter of Diggs*, 544 S.E.2d 628 (S.C. 2001) (90 day suspension for attorney who submitted false CLE compliance report

⁴ A public reprimand in North Carolina is similar to a reprimand in New Hampshire.

that was signed and notarized after being told by the Commission that he could not claim credit for future classes and again claimed credit for a course he did not attend.) Because Mr. DiBlasi did not purposefully submit a false certification in order to avoid CLE obligations, and, in fact, took remedial steps, along with other mitigating factors including no prior disciplinary history, a downward departure to a sanction of Reprimand is appropriate.

IV. Costs

62. Subject to the PCC's approval of Mr. DiBlasi's Stipulation, Mr. DiBlasi 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 separate agreement signed by Mr. DiBlasi.

V. Effect of Stipulation

63. Mr. DiBlasi understands that this Stipulation represents a recommended disposition, and that the PCC may accept, reject, or conditionally accept the Stipulation pursuant to Rule 37A(III)(aa)(1).
64. Mr. DiBlasi 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; that he has consulted with

counsel regarding this Stipulation; and that he is fully aware of the consequences of the Stipulation.

65. Mr. DiBlasi knowingly and intelligently waives his right to a hearing.


Respectfully submitted,

Dated: February 15, 2018




Joseph P. DiBlasi, Esq., Respondent

Dated: February 15, 2018



Maureen D. Smith, Esq.
Counsel for Joseph P. DiBlasi, Esq.

Dated: February 15, 2018



Elizabeth M. Murphy, Esq.
Assistant Disciplinary Counsel