

New Hampshire Supreme Court
Professional Conduct Committee

a committee of the attorney discipline system

David M. Rothstein, Chair
Heather E. Krans, Vice Chair
Elaine Holden,* Vice Chair
Peter G. Beeson
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Barbara J. Guay, Legal Assistant

Mattocks, Cory R. advs. Attorney Discipline Office - #16-009
Corrected Case Number #17-007

PUBLIC CENSURE WITH CONDITIONS AND ORDER ON COSTS

On September 19, 2017, the Professional Conduct Committee (“the Committee”) deliberated the Stipulation as to Facts, Violations and Sanction: Public Censure With Conditions (“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; Peter G. Beeson; Susan R. Chollet; Richard H. Darling; Margaret R. Kerouac; Caroline K. Leonard; Edward D. Philpot, Jr.; Georges J. Roy; and Martha Van Oot. Mona T. Movafaghi was absent.

The Committee approved the facts as stipulated by clear and convincing evidence. It further found that Cory R. Mattocks’s conduct violated Rules of Professional Conduct 1.2; 1.4; 1.15; 8.4(a); and Supreme Court Rule 50, as stipulated.

The Committee also concluded that a Public Censure With Conditions 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”).

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

September 19, 2017



David M. Rothstein
Chair

cc: Sara S. Greene, Disciplinary Counsel
Cory R. Mattocks, Esquire
File



NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Mattocks, Cory R. advs. Attorney Discipline Office - #16-009

Mattocks, Cory R. advs. Attorney Discipline Office - #17-007

STIPULATION AS TO FACTS, VIOLATIONS,
AND SANCTION: PUBLIC CENSURE WITH
CONDITIONS

Respondent Cory R. Mattocks, Esq. ("Mr. Mattocks"), and the Attorney Discipline Office ("ADO") stipulate as follows:

A. Background Facts

1. Mr. Mattocks is an attorney licensed to practice law in New Hampshire. Mr. Mattocks was admitted to practice on June 21, 2011.
2. At all times material to this proceeding, Mr. Mattocks operated his law office as C.O.R. Legal, 86 Gary Road, Middleton, New Hampshire 03887.
3. Mr. Mattocks has not been admitted to practice law in any other jurisdiction.
4. Mr. Mattocks does not have a disciplinary history.
5. This disciplinary matter arises from a grievance filed on February 9, 2016 by Ms. Robin Rousseau ("Ms. Rousseau") against Mr. Mattocks regarding his representation of her in two foreclosure matters. The first was a post-foreclosure matter ("Post-Foreclosure Matter") involving

property located at 345 Packers Falls Road, Durham, New Hampshire (“Durham Property”). The second was a pre-foreclosure matter (“Pre-Foreclosure Matter”) for property located at 871 Middle Street, Portsmouth, New Hampshire (“Portsmouth Property”).

6. Subsequently, in March 2017, the ADO received an overdraft notification (“ODN”) from TD Bank for Mr. Mattocks’s client trust account (“CTA”) ending in 8949. This overdraft was the result of a fraudulent charge to the CTA which Mr. Mattocks disputed and resolved with TD Bank. TD Bank reversed the fraudulent charge and returned the overdraft fee it had charged Mr. Mattocks. The ADO’s review of CTA records, however, revealed negligent Rule 1.15 and Rule 50 violations as set forth herein.
7. The ADO has consolidated both matters because they were received by the ADO during a thirteen month time frame; there is an overlap of issues relative to safekeeping of the property in both matters; and for purposes of judicial economy.

B. Facts: Rousseau Matter, #16-009

8. Mr. Mattocks represented Ms. Rousseau from October 2015 – December 2015.
9. On April 22, 2015, Fannie Mae foreclosed on the Durham Property as a result of Ms. Rousseau’s failure to make payments owed on a note secured by a mortgage on that property.
10. In October of 2015, Ms. Rousseau retained Mr. Mattocks to challenge the foreclosure of the Durham Property. Pursuant to the written fee

agreement (“First Fee Agreement”) signed by Ms. Rousseau, Ms.

Rousseau provided Mr. Mattocks with a \$1,500.00 retainer (“First Retainer”).

11. Mr. Mattocks did not deposit the First Retainer into his firm IOLTA account. Considering the payment a “flat fee,” Mr. Mattocks deposited the First Retainer into his personal bank account.
12. Although Mr. Mattocks intended the scope of his representation to be on a limited basis, the First Fee Agreement was a “boilerplate” agreement containing a broad range of services, many of which were inapplicable to Ms. Rousseau’s post-foreclosure issues. The First Fee Agreement also contained errors relating to the retainer *e.g.* stating in one instance that the retainer was \$1,500.00, and, in another instance, that the retainer was \$3,000.00. The First Fee Agreement did not disclose an hourly fee for the services covered under the agreement. For legal services not specifically covered by the agreement, the hourly rate was disclosed as \$250.00 an hour.
13. The First Fee Agreement did not provide any milestones for when the retainer or a portion of the retainer would be deemed earned.
14. Mr. Mattocks initially represented to Ms. Rousseau that after he obtained and reviewed all of the relevant documentation he would begin preparing a complaint against the mortgagee, Fannie Mae, and the servicer, Green Tree. By the end of December 2015 (when Ms. Rousseau terminated Mr.

Mattocks's representation), Mr. Mattocks had still not prepared the complaint.

15. Throughout his representation of Ms. Rousseau in the Post-Foreclosure Matter (*i.e.*, October 2015 through December 2015), Mr. Mattocks failed to provide Ms. Rousseau with any records or invoices detailing the work that he performed on the Post-Foreclosure Matter. However, Mr. Mattocks' file produced to the ADO contained legal research Mr. Mattocks performed on the issue.
16. On November 5, 2015, Ms. Rousseau received a foreclosure notice for the Portsmouth Property. The foreclosure of the Portsmouth Property was scheduled for December 18, 2015.
17. Mr. Mattocks and Ms. Rousseau met on December 11, 2015 at the Pease Golf Course restaurant and discussed strategy for both the Pre-Foreclosure Matter and Post-Foreclosure Matter. On that day, Mr. Mattocks agreed to provide limited representation to Ms. Rousseau in the Pre-Foreclosure Matter in exchange for a retainer of \$800.00 ("Second Retainer").
18. Mr. Mattocks represents that the Second Retainer only covered Mr. Mattocks's pre-hearing research on stopping the foreclosure and that Ms. Rousseau was required to pay an additional retainer of \$1,700.00 for Mr. Mattocks's preparation and litigation of a Petition to Enjoin Foreclosure.
19. This Fee Agreement was another "boilerplate" agreement which contained a list of a broad range of pre-foreclosure services to be provided ("Second

Fee Agreement”). Mr. Mattocks maintained that he made handwritten changes to the Second Fee Agreement to reflect his agreement with Ms. Rousseau at their meeting on December 11, 2015.

20. Mr. Mattocks allowed Ms. Rousseau to keep the signed original of the Second Fee Agreement, asking that she send him a copy. Mr. Mattocks never received a copy of the Second Fee Agreement with the handwritten changes from Ms. Rousseau. Ms. Rousseau could not recall whether handwritten changes were made and could not produce a copy of the Second Fee Agreement to the ADO.
21. At their meeting on December 11, 2015, Mr. Mattocks again represented that he would file something with the court in the Post-Foreclosure Matter by the end of January 2016.
22. On December 14, 2015, Mr. Mattocks prepared and forwarded correspondence to Secured Equity Financial, LLC (“SEF”), the holder of the mortgage on the Portsmouth Property, demanding SEF’s immediate production of various documents in support of the foreclosure.
23. On December 16, 2015, Ms. Rousseau paid the Second Retainer of \$800.00 to Mr. Mattocks.
24. The Second Retainer was not deposited into the Mr. Mattocks’s IOLTA account. He deposited it into his operating account on December 16, 2015.
25. On December 17, 2015, Mr. Mattocks forwarded correspondence to SEF’s attorney, Peter Doyle, demanding that the foreclosure on the Portsmouth

Property be immediately cancelled or postponed. After SEF's attorney informed Mr. Mattocks that the foreclosure would not be cancelled or postponed, Mr. Mattocks prepared a "pro se" Petition to Enjoin Foreclosure ("Petition"). At 3:10 p.m. that same day, Mr. Mattocks forwarded to Ms. Rousseau the "pro se" Petition and directed her to file the Petition with the Rockingham County Superior Court ("Court") before the Court closed at 4:00 p.m. Ms. Rousseau arrived at the Court after it had closed and, therefore, had to wait until the next morning, the day of the foreclosure, to file the Petition.

26. Although Mr. Mattocks prepared the Petition and directed Ms. Rousseau to file the Petition "pro se," the Petition did not include the notice required by Superior Court Rule 17(g), stating that the pleading was prepared with the assistance of a New Hampshire attorney. Mr. Mattocks admits he was aware of Rule 17(g)'s requirements, but he simply forgot to include the notice in the Petition.
27. On December 18, 2015 (the day of the foreclosure), the Court granted the Petition on an *ex parte* basis, and scheduled a hearing on the Petition for December 23, 2015.
28. Mr. Mattocks went to the Court the morning of December 18, 2015. After the Court granted the Petition, Mr. Mattocks instructed Ms. Rousseau regarding service of process. He advised her to request that the attorney for SEF accept service of the Orders of Notice. Mr. Mattocks

also mentioned that he could file a more detailed “amended” Petition for the hearing on December 23rd.

29. During the next week, Ms. Rousseau communicated with Mr. Mattocks about the status of service, and strategy for the hearing. Ms. Rousseau assumed that Mr. Mattocks would file a more detailed “amended” Petition and appear on her behalf at the December 23, 2015 hearing.
30. Mr. Mattocks and Ms. Rousseau exchanged emails throughout the day and well into the evening of December 22, 2015. These e-mails demonstrate that Ms. Rousseau expected Mr. Mattocks to prepare an amended Petition and attend the hearing scheduled for the next morning.
31. On the morning of the hearing, however, Mr. Mattocks responded that he had performed under the terms of the Second Agreement and he had not agreed to appear at the hearing without payment of the additional retainer.
32. The Court ultimately continued the December 23, 2015 hearing to December 30, 2015. On the afternoon of December 23, 2015, Ms. Rousseau terminated Mr. Mattocks’s representation of her by email and, on December 28, 2015, Ms. Rousseau hired Terrie Harman, Esquire, of Harman Law Offices to represent her in both the First and Second Foreclosure Matters.
33. On January 5, 2016, Ms. Rousseau sent a letter to Mr. Mattocks requesting the refund of both the First Retainer and the Second Retainer.

Mr. Mattocks had not provided her with invoices detailing work performed on the Pre-Foreclosure Matter.

34. The ADO's review of Mr. Mattocks's Rousseau file demonstrates work performed by Mr. Mattocks in both the Pre-Foreclosure and the Post-Foreclosure matters. While not stipulating herein to any precise dollar figure earned, the parties agree that he performed work for Ms. Rousseau and earned at least some of his fees in both matters.
35. Ms. Rousseau filed a small claims action to obtain a refund of the First Retainer and the Second Retainer. Eventually, Mr. Mattocks and Ms. Rousseau, with the assistance of the New Hampshire Bar Association Dispute Resolution Committee, reached an agreement which required Mr. Mattocks to refund both retainers.

**C. Facts: Review of Trust Account Bank Records
Following ODN, #17-007**

36. As noted above, following receipt of the ODN, which proved to be the result of a fraudulent charge and not misconduct by Mr. Mattocks, the ADO subpoenaed bank records for his CTA for the period September 2016 through March 31, 2017.
37. During this period, Mr. Mattocks was not actively seeking out clients nor operating his law practice full-time. He was working as a contract attorney for Beacon Hill Legal Staffing, conducting document review and e-discovery services out of their offices in Woburn, Massachusetts. His CTA therefore had very few transactions relating to client matters.

38. A review of those records, however, revealed the following conduct which violates Rule 1.15 and Sup. Ct. Rule 50.
39. Mr. Mattocks withdrew fees for three client matters via cash withdrawals from the CTA without identifying the client matter to which such withdrawals pertained. These fees were earned.
40. When Mr. Mattocks opened the CTA in September 2015, he did not order checks for the CTA, wishing not to incur the expense because he had so few clients and was not actively seeking new clients. Mr. Mattocks was unaware that cash withdrawals are prohibited by Sup. Ct. Rule 50(C)(v), but acknowledges he should have known this.
41. Mr. Mattocks was able to identify for the ADO the client matters to which the payments pertained and produce file materials showing they were earned.
42. Mr. Mattocks did not maintain client ledgers as required by Sup. Ct. Rule 50(B).
43. Mr. Mattocks will begin working for Cohen Closing & Title, LLC, in Bedford, New Hampshire on September 5, 2017. He will be working in a salaried staff/paraprofessional capacity assisting attorneys with closings and preparing settlements statements. He will not be disbursing funds at closing and is not a signatory.

D. Disciplinary Rules Violated

44. The parties agree that Mr. Mattocks's conduct in this case implicates

New Hampshire Rules of Professional Conduct 1.2, 1.4, 1.15, Sup. Ct. Rule 50, and 8.4(a).

Rule 1.2: Scope of Representation

45. The facts set forth above are incorporated by reference.
46. Rule 1.2 states as follows:
 - (a) Subject to paragraphs (c), (d), and (e), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.
 - (b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.
 - (c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. In providing limited representation, the lawyer's responsibilities to the client, the court and third parties remain as defined by these Rules as viewed in the context of the limited scope of the representation itself; and court rules when applicable.
 - (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.
 - (e) It is not inconsistent with the lawyer's duty to seek the lawful objectives of a client through reasonably available means, for the lawyer to accede to reasonable requests of opposing counsel that do not prejudice the rights of the client, avoid the use of offensive or dilatory tactics, or treat opposing counsel or an opposing party with civility.
 - (f) In addition to requirements set forth in Rule 1.2(c),
 - (1) a lawyer may provide limited representation to a client who is or may become involved in a proceeding before a tribunal (hereafter referred to as litigation), provided that the limitations are fully disclosed and explained, and the client

gives informed consent to the limited representation. The form set forth in section (g) of this Rule has been created to facilitate disclosure and explanation of the limited nature of representation in litigation. Although not prohibited, the provision of limited representation to a client who is involved in litigation and who is entitled as a matter of law to the appointment of counsel is discouraged.

(2) a lawyer who has not entered an applicable limited appearance, and who provides assistance in drafting pleadings, shall advise the client to comply with any rules of the tribunal regarding participation of the lawyer in support of a pro se litigant.

47. Mr. Mattocks had a duty under Rule 1.2 to fully disclose and explain the nature of the limited representation that he was providing in the Pre-Foreclosure Matter, and to obtain the client's informed consent¹ to the limited representation.

48. Mr. Mattocks had a duty under Rule 1.2 to comply with court rules regarding his limited representation of Ms. Rousseau in the Pre-Foreclosure Matter. In particular, Mr. Mattocks had an obligation to comply with Superior Court Rule 17(g), which states in relevant part: "any filing drafted by such limited representation attorney, however, must conspicuously contain the statement '**This filing was prepared with the assistance of a New Hampshire attorney.**' The unrepresented party must comply with this required disclosure."
(Emphasis in original).

¹ "Informed consent" is defined under the Rules of Professional Conduct as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." See Rule 1.0(e).

49. Mr. Mattocks breached this duty when he failed to disclose and explain the scope of his limited representation of Ms. Rousseau in the Pre-Foreclosure Matter in a manner that made clear to her the material risks of and reasonably available alternatives to the limited representation.
50. Mr. Mattocks breached this duty by preparing a pleading for Ms. Rousseau that did not contain the disclosure to the Court that the pleading had been prepared with the assistance of a New Hampshire Attorney.
51. The parties agree there is clear and convincing evidence that Mr. Mattocks' conduct violated Rule 1.2.

Rule 1.4: Communication

52. The facts set forth above are incorporated by reference.
53. Rule 1.4 states as follows:
 - (a) A lawyer shall:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter.
 - (4) promptly comply with reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
 - (b) A lawyer shall explain the legal and practical aspects of a matter and alternative courses of action to the extent that

such explanation is reasonably necessary to permit the client to make informed decisions regarding the representation.

54. Mr. Mattocks had a duty under Rule 1.4 to adequately communicate with Ms. Rousseau so that she understood that he was not obligated to appear at the hearing on the merits in the Pre-Foreclosure Matter, pursuant to the Second Agreement. It is clear that Ms. Rousseau expected Mr. Mattocks to attend the hearing as late as the day before the hearing and even on the day of the hearing. When Mr. Mattocks did not appear at the hearing, it was continued at Ms. Rousseau's request.
55. Mr. Mattocks breached this duty when he failed to adequately communicate the limitations of his representation to Ms. Rousseau and that he would not be appearing at the hearing or preparing the Amended Petition.
56. The parties agree there is clear and convincing evidence that Mr. Mattocks' conduct violated Rule 1.4.

**Rule 1.15: Safekeeping Property and Sup. Ct. Rule 50
(Record-Keeping Requirements)**

57. The facts set forth above are incorporated by reference.
58. Rule 1.15 states as follows:
 - (a) Property of clients or third persons which a lawyer is holding in the lawyer's possession in connection with a representation shall be held separate from the lawyer's own property. Funds shall be deposited in one or more clearly designated trust accounts in accordance with the provisions of the New Hampshire Supreme Court Rules. All other property shall be identified as property of the client, promptly upon receipt, and safeguarded.

- (b) Records shall be maintained by the lawyer of the handling, maintenance and disposition of all funds and other property of the client at any time in the lawyer's possession from the time of receipt to the time of final distribution and shall be preserved for a period of six years after final distribution of such funds or other property or any portion thereof. The lawyer shall maintain the minimum financial records specified in the New Hampshire Supreme Court Rules and shall comply with every other aspect of those Rules.
- (c) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount appropriate for that purpose.
- (d) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.
- (e) Funds may be disbursed from lawyer trust accounts upon (A) (i) deposit, receipt of which is acknowledged by the receiving financial institution, of cash, bank cashier's check, certified check, or electronic transfer of funds at least equal to the sum of such disbursements, or (ii) clearance of any other form of deposit by such receiving financial institution, and (B) availability of such funds to the lawyer from the receiving financial institution.
- (f) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and upon request by the client or third person, shall promptly render a full accounting regarding such property.
- (g) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

59. Mr. Mattocks had a duty under Rule 1.15 to deposit both the First Retainer and the Second Retainer into his IOLTA account and to only withdraw the funds after they were earned. To the extent that the legal fees in either matter were intended to be flat fees, Mr. Mattocks had an obligation under Rule 1.15 to not withdraw the retainer or a portion of the retainer until it was earned.
60. Mr. Mattocks breached this duty when he deposited the First Retainer and the Second Retainer into a non-IOLTA account prior to having earned the legal fees.
61. Mr. Mattocks also violated Rule 1.15 and Supreme Court Rule 50 by making cash disbursements from the CTA and by failing to maintain client ledgers.
62. The parties agree there is clear and convincing evidence that Mr. Mattocks' conduct violated Rule 1.15 and Supreme Court Rule 50.

Rule 8.4(a): General Rule

63. Having found the foregoing violations, the parties agree that there is clear and convincing evidence that Mr. Mattocks's conduct, as described herein, violated N.H. R. Prof. Conduct 8.4(a).

E. Recommended Sanction

64. The Attorney Discipline Office and Mr. Mattocks jointly recommend a Public Censure with Conditions as the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.

65. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.
66. 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).
67. 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.
68. 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”).

69. Under the first prong of the analysis, Mr. Mattocks violated duties owed to his client and to the legal system. *See Standards* §§ 4.1, 4.4 and 6.2.
70. With respect to Mr. Mattocks’s mental state under the second prong of the sanction analysis, the parties agree that Mr. Mattocks’s mental state was negligent.²
71. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Mr. Mattocks’s misconduct.
72. Mr. Mattocks’s conduct caused injury to Ms. Rousseau in that she was not sufficiently informed regarding the limited nature of his representation and that he would not be appearing at the hearing on the Pre-Foreclosure Petition on December 23, 2015. Mr. Mattocks did agree to refund all fees to Ms. Rousseau, despite having earned at least a portion of them.
73. As to the Rule 1.15 violations, while there is no evidence that Mr. Mattocks’s conduct caused actual injury to clients, he risked potential injury to his clients by failing to maintain adequate ledgers or comparable records and by making cash withdrawals as opposed to withdrawals by check as required by Supreme Court Rule 50(2)(C)(v).

² The *ABA Standards* define “Negligence” as “the failure of a lawyer to heed 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 that situation.” *ABA Standards*, Sec. III (“Definitions”).

74. Mr. Mattocks's violations of Rules 1.2 and 1.4 implicate Section 4.4 of the *Standards*, which provides, in pertinent part:

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

4.43 Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

4.44 Admonition³ is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

75. Mr. Mattocks's violation of Rule 1.15 implicates Section 4.1 of the *Standards*, which provides, in pertinent part:

4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

³ The term "admonition," as used in the *ABA Standards*, is analogous to a reprimand in New Hampshire. The term "reprimand," as used in the *ABA Standards*, is analogous to a public censure in New Hampshire.

- 4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.
- 4.14 Admonition is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.
76. Under the foregoing circumstances, the parties agree that the baseline sanction is a Public Censure. *See Standards* §§4.43, 4.13.
77. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.
78. In this case, there are no aggravators factor present. *See Standards* § 9.22. Mitigating factors include the absence of prior disciplinary record, absence of a dishonest or selfish motive, full and free disclosure to ADO, and remorse. *See Standards* § 9.32.
79. The parties agree that the aggravating and mitigating factors evident in this case, combined with the baseline sanction analysis, indicate that a public censure with conditions will serve as the appropriate sanction in this matter.

F. Mandatory Conditions; Procedures for Alleged Violation of Conditions

80. As set forth further below, should Mr. Mattocks breach a condition of this Stipulation, he agrees that a six-month suspension is the appropriate sanction.
81. Mr. Mattocks agrees to comply with the following conditions during the one year monitoring period, which shall begin on the date the

Professional Conduct Committee accepts this Stipulation:

- a. Respondent shall watch the CLE presented in part by General Counsel Janet F. DeVito in March of 2016, which is archived and available for viewing through the New Hampshire Bar Association website, and provide proof of compliance to the ADO; and
 - b. Respondent will engage in no professional misconduct during the monitoring period.
82. Mr. Mattocks currently has no open client matters that involve holding of client funds. If Mr. Mattocks returns to the practice of law in New Hampshire during the one year monitoring period, and such practice involves holding client funds in trust or being a signatory on any client trust account, the following conditions will apply:
- a. Respondent shall immediately inform the ADO of such return to practice;
 - b. Respondent shall, for a period of one year following his return to practice, submit monthly reconciliations that comply with Sup. Ct. Rule 50(2) to the ADO. The first submission shall be on the 15th day of the month following his return to practice, and Mr. Mattocks shall file with the ADO his monthly client trust account reconciliations on the 15th of each month thereafter for a period of twelve consecutive months.
83. If it is alleged that Mr. Mattocks violated any of the conditions enumerated at Paragraphs 81 and 82 above, the following shall apply:

- a. Upon motion by Disciplinary Counsel, the Professional Conduct Committee may determine whether any of the conditions enumerated at Paragraphs 81 and 82 have been violated. If it determines that a condition has been violated, the Committee shall impose a six-month suspension. If the Committee determines that no condition of this Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms.
- b. Respondent may request that the Professional Conduct Committee remand the matter to the Hearings Committee so that a Hearing Panel may be appointed to decide the sole issue of whether a condition under Paragraphs 81 and 82 of this Stipulation has been violated. During such hearing, it shall be the burden of Disciplinary Counsel to demonstrate by a preponderance of evidence that a condition listed in Paragraphs 81 and 82 has been violated.
- c. If a Hearing Panel determines that a condition has been violated, the Panel shall recommend a six-month suspension. If the Hearing Panel determines that no condition of the Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms.
The PCC shall review the decision of the Hearing Panel.

84. If a new grievance or referral is filed against Mr. Mattocks during the monitoring period, thus implicating the condition at Paragraph 81(b), the following shall apply:

- a. So long as a grievance or referral is filed within the monitoring period (“the subsequent proceeding”), and the alleged misconduct occurred, at least in part, during the monitoring period, a six-month suspension may be imposed at such time as there is a finding of misconduct in the subsequent proceeding, even if such finding occurs beyond the monitoring period.
- b. Pending the final resolution of the subsequent proceeding, the matter underlying this Stipulation shall not be closed.
- c. If the conditions of Paragraphs 81(a) and 82 have been met, Mr. Mattocks will not have to continue to comply with those provisions while the subsequent proceeding is pending.
- d. The Respondent shall bear all costs associated with compliance and enforcement of the terms and conditions of this Stipulation.
- e. Nothing herein shall be construed to limit prosecution of any new grievance or referral involving conduct of Respondent occurring during the monitoring period.

G. Costs

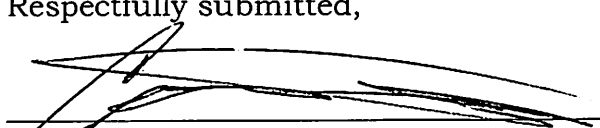
85. Subject to the PCC’s approval of Mr. Mattocks’s Stipulation, Mr. Mattocks agrees to pay the costs incurred by the ADO in the investigation and enforcement of this disciplinary matter. See Supreme Court Rule 37(19). The agreement to pay the costs incurred by the ADO is the subject of a separate agreement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

H. Effect of Stipulation

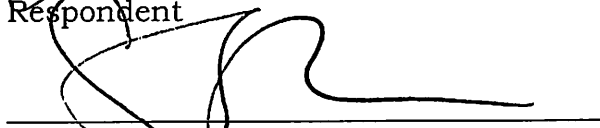
86. Mr. Mattocks understands that this stipulation represents a recommended disposition, and that the Professional Conduct Committee may accept, reject, or conditionally accept the stipulation, pursuant to Rule 37A (III)(aa).
87. Mr. Mattocks acknowledges that the admissions of misconduct and the proposed 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 is fully aware of the consequences of the stipulation and that he has the right to obtain counsel regarding this Stipulation.
88. Mr. Mattocks knowingly and intelligently waives his right to a hearing.

Respectfully submitted,

Dated: 8/25 2017


Cory R. Mattocks, Esquire
Respondent

Dated: 9-5 2017


Sara S. Greene
Disciplinary Counsel

Dated: 9/6 2017


Elizabeth M. Murphy
Assistant Disciplinary Counsel



NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Mattocks, Cory R. advs. Attorney Discipline Office - #16-009

Mattocks, Cory R. advs. Attorney Discipline Office - #17-007

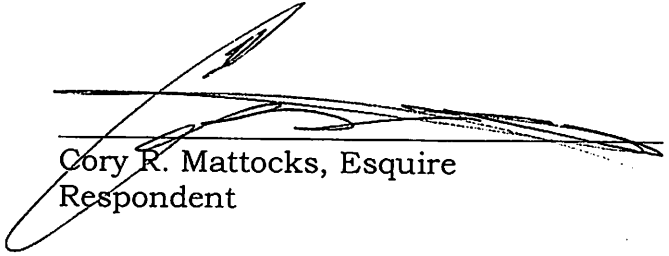
AGREEMENT TO PAY COSTS
OF DISCIPLINARY MATTER

1. Subject to the Professional Conduct Committee's approval of the Stipulation of Facts, Rule Violations, and Sanction in the above matters, 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. I have been informed that as of August 23, 2017, the costs in Docket #16-009 are approximately \$208.00; and the costs in Docket #17-007 are approximately \$67.50. Costs for both matter total approximately \$275.50.
3. Should further costs accrue in this disposition of these matters, I understand that the Committee will bill me for these costs. If I dispute the bill, I will notify the Committee of the specific nature of the dispute in writing within thirty days of my receipt of the bill. I understand that the Committee will consider the disputed item and issue a written decision. If I do not notify the committee that I dispute the bill, payment will be due upon its receipt.

4. 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.
5. 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.
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 costs incurred as a result of the Committee's collection efforts.

Respectfully submitted,

Dated: 8/25/ 2017


Cory R. Mattocks, Esquire
Respondent