

New Hampshire Supreme Court
Professional Conduct Committee

a committee of the attorney discipline system

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*non-lawyer member

Sweeney, Shawn P. advs. Attorney Discipline Office
#2024-026

Order

On September 16, 2025, the Professional Conduct Committee (“PCC”) reviewed the following: (i) a jointly filed Stipulation as to Facts, Violations, and Sanction: Reprimand, dated August 12, 2025, proposed by the Respondent, Shawn P. Sweeney, Esq., and the Attorney Discipline Office (the “Stipulation”); and (ii) an Agreement to Pay Costs. Stephanie Hausman was recused.

After deliberation, pursuant to New Hampshire Supreme Court Rule 37A(III)(aa)(3), the PCC voted to conditionally approve the Stipulation. The PCC agreed with the four-part sanction analysis described in the Stipulation in Paragraphs 65 through 80, with one exception: the PCC did not consider the *nol proseed* matter as an example of an actual injury to the public and/or the legal profession. Even if, however, the *nol proseed* is removed from the injurious conduct described in the Prong 3 analysis (Stipulation, Paragraph 73), Respondent’s conduct still caused actual injury to the legal system through the jury’s empanelment and the mistrial. As such, the PCC felt that the ultimate sanction proposed in the Stipulation, a Reprimand, is appropriately warranted.

Further, the PCC voted to approve the Agreement to Pay Costs.

October 27, 2025

/s/ Caroline K. Leonard
Caroline K. Leonard, Vice Chair

cc: Sara S. Greene, Disciplinary Counsel (by email)
Russell F. Hilliard, Esq., Counsel for the Respondent (by email)

New Hampshire Supreme Court

Attorney Discipline Office

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October 30, 2025

Sent Via Hand Delivery and Email

Trudy Renfors, Administrative Assistant
New Hampshire Supreme Court
Professional Conduct Committee
4 Chenell Drive, Suite 102
Concord, New Hampshire 03301

Re: Sweeney, Shawn P. advs. Attorney Discipline Office - #24-026

Dear Ms. Renfors:

Pursuant to Rule 37A(III)(aa)(3)(E)(i), the Attorney Discipline Office hereby consents to the conditional terms of the Order dated October 27, 2025 conditionally approving the parties' Stipulation in this Matter. It is the ADO's understanding that the Respondent is separately submitting his approval.

Please let me know if you need any additional information.

Sincerely,



Sara S. Greene
Disciplinary Counsel

SSG/ges

cc: Russell F. Hilliard, Esquire
Kyle D. Robidas, Esquire

Russell F. Hilliard
James F. Raymond
Heather M. Burns
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Of Counsel
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October 30, 2025

Via Electronic Mail Only

Trudy Renfors, Administrative Assistant
New Hampshire Supreme Court
Professional Conduct Committee
4 Chenell Drive; Suite 102
Concord, NH 03301

Re: Sweeney, Shawn P. advs. Attorney Discipline Office; #24-026

Dear Ms. Renfors:

Pursuant to Rule 37A(III)(aa)(3)(E)(i), the Respondent hereby consents to the conditional terms of the Order dated October 27, 2025 conditionally approving the parties' Stipulation in this matter.

Thank you for your assistance.

Very truly yours,

/s/ Russell F. Hilliard

Russell F. Hilliard
rhilliard@uptonhatfield.com
(603) 436-7046

RFH/sem

cc: Sara S. Greene, Esq. (via Electronic Mail only)
Shawn P. Sweeney, Esq. (via Electronic Mail only)

159 Middle Street, Portsmouth, NH 03801
Concord – Peterborough – Portsmouth

**NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE**

Sweeney, Shawn P.

advs.

Attorney Discipline Office

#24-026

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

Respondent Shawn P. Sweeney, Esq., and the Attorney Discipline Office (ADO) stipulate as follows:

A. Facts

1. Mr. Sweeney is an attorney licensed to practice law in New Hampshire. Mr. Sweeney was admitted to practice on October 29, 2001.
2. Mr. Sweeney has not been admitted to practice law in any other jurisdiction.
3. At all times material to this proceeding, Mr. Sweeney was an Assistant County Attorney for the Hillsborough County Attorney's Office ("HCAO"), Northern District, in New Hampshire.
4. Mr. Sweeney does not have a previous disciplinary history.
5. This disciplinary matter was initiated by a referral from Kyle Robidas, Esq., a New Hampshire public defender who represented Nadeshda Rios Rodriguez in a criminal matter in which Mr. Sweeney served as the county attorney. The matter was pending in Hillsborough County Superior Court, Northern District, #216-2020-CR-524 ("the Case").
6. In the course of its investigation, Disciplinary Counsel met with Mr. Sweeney and his counsel, as well as two county attorneys that Mr. Sweeney supervised and who

assisted him in the case, Zachary Charland and Benjamin Bernatz. In addition, the ADO met with the referring attorney, Kyle Robidas, and conducted interviews with Mr. Sweeney's legal assistant, Eva Reardon, as well as Patrick Ives, Esq. Lead Attorney of Major Crimes at HCAO. Finally, Mr. Sweeney produced voluminous internal HCAO emails from the relevant time period.

Overview: The Underlying Criminal Case/Failure to Disclose Zwicker Material

7. On April 23, 2020, Ms. Rios Rodriguez was involved in a serious incident that resulted in injury to Hugh Schultz, the alleged victim. The State charged Ms. Rios Rodriguez with two counts of First-Degree Assault and one felony count of Criminal Threatening, alleging that Ms. Rios Rodriguez had stabbed and threatened Mr. Schultz, her ex-boyfriend, with a knife. Ms. Rios Rodriguez asserted the claim of self-defense.
8. The charges were ultimately *nolle prossed* on March 4, 2024, several months after the Court (J. Delker) declared a mistrial on November 13, 2023.
9. Mr. Sweeney filed an appearance in the Case on December 17, 2021, on behalf of the State of New Hampshire. In February 2023, two newly admitted attorneys, Attorneys Zachary Charland and Benjamin Bernatz, filed appearances in the Case.
10. Mr. Charland and Mr. Bernatz were supervised by Mr. Sweeney in the Case, and Mr. Sweeney was "first chair." Mr. Robidas represented the defendant at trial.
11. The case proceeded to a jury trial on November 13, 2023, without Mr. Sweeney's involvement. Upon hearing the State's opening statement, including new information never disclosed to defense counsel prior to trial, defense counsel moved for a mistrial. Comparing the audio recording of the State's opening statement with a transcript of the only previously provided statement by the alleged victim in discovery, the Court noted on the record a number of material differences.
12. The Court ordered the State to provide "all notes of interviews with the alleged

victim and a coherent *Zwicker* letter¹ detailing the statements [the alleged victim] provided to the State.” After review of those notes, the Court declared a mistrial based on the State’s failure to provide this discovery to defense counsel.

13. These notes, which were taken during three meetings that Mr. Sweeney attended with Mr. Schultz (two meetings with Attorneys Bernatz and Charland in attendance, and one meeting without them present), constituted “*Zwicker*” material that should have been disclosed before trial.
14. Mr. Sweeney admits that he negligently failed to disclose the notes of these meetings to the defense in violation of his duty pursuant to Rule 3.8(d). His initial response to the ADO stated “[a]s lead counsel and a supervising attorney in the office, the responsibility for ensuring that discovery rules are followed lies squarely with me. Following that meeting [with the alleged victim], I should have taken the time to ensure that a proper summary was prepared and disclosed.”
15. Mr. Sweeney would testify that he never intentionally or knowingly withheld the notes. The ADO’s interviews with Mr. Bernatz and Mr. Charland, as well as its review of internal HCAO emails, demonstrate that Mr. Sweeney did not instruct the lawyers under his supervision to withhold the notes. These emails also demonstrate that once ordered to produce statements regarding meetings with Mr. Schultz, the attorneys at HCAO worked promptly and in good faith to locate and produce them.

¹ The *Zwicker* obligation is part of a prosecutor’s ongoing obligation to provide timely disclosures to the defense of new, material information concerning a witness’ statements. *State v. Zwicker*, 151 N.H. 179 (2004). The *Zwicker* obligation flows from the requirement set forth in *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *State v. Laurie*, 139 N.H. 325 (1995), that the State disclose exculpatory information to the defense. Specifically, “the suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Brady*, 373 U.S. at 87. *Brady* material includes impeachment evidence. *See States v. Bagley*, 473 U.S. 667, 676-77 (1985). Impeachment information typically refers to information that tends negatively to impact the credibility or reliability of a government witness.

16. The relevant chronology, and background context, is set forth in more detail below.

Chronology of the Criminal Case and the State's
Meetings with the Alleged Victim

17. The Case was pending for about 20 months at the time Mr. Sweeney filed his appearance in December 2021. Mr. Sweeney had been at the HCAO about 11 months by this time, having been hired by County Attorney John Coughlin as First Assistant. For about 14 years prior to joining the HCAO, Mr. Sweeney was in private practice as a criminal defense attorney.
18. The only statements from the alleged victim that the defense had in its possession before trial came from the night of the incident. On the night of the incident, the alleged victim spoke to the police for approximately 10 minutes at the hospital and approximately 3 minutes at the scene prior to being loaded into an ambulance. No other statements were disclosed to the defense until it requested a mistrial, and the Court ordered the State to produce all notes of meetings with Mr. Schultz.
19. The meetings with Mr. Schultz during which *Zwicker* material arose occurred on three dates: April 19, 2022, March 7, 2023, and November 6, 2023. Each of the meetings is discussed below with relevant intervening events and context.

April 2022: Mr. Sweeney's Meeting with the Alleged Victim

20. On April 19, 2022, Mr. Sweeney met with Mr. Schultz to prepare for a settlement conference that was then scheduled for May 20, 2022. The trial date as of April 19, 2022, was July 25, 2022.²
21. Mr. Sweeney took handwritten notes during this meeting. He recalls that another staff member of the HCAO was present. However, he cannot recall who attended this meeting with him, nor could his legal assistant. In any event, Mr. Charland and Mr. Bernatz were not yet involved in the Case and were not present at this meeting.

² The trial was continued a few times, but when meetings occurred with Mr. Schultz, it was always in preparation for a then-scheduled, upcoming trial date.

22. The handwritten notes from this April 2022 meeting include the full name and phone number of an individual, with the notation that Mr. Schultz evidently claimed he was “on phone with friend when assault happened.” This information was not something that Mr. Schultz had shared with police on the night of the incident and not something that Mr. Sweeney had heard before. His handwritten notes have a star next to this information.
23. This note was not disclosed to the defense before trial, and, as set forth further below, was not located by HCAO staff until over a month after the Court ordered the State to produce all handwritten notes on the first day of trial.
24. In the course of the ADO’s investigation, it requested internal HCAO emails between and among all HCAO staff during the relevant time period. Mr. Sweeney complied with this request, and in the process located an email that he sent, on the same date as his April 19, 2022 meeting with Mr. Schultz, directed to Manchester Police Officer Joseph Esposito. Officer Esposito was one of the arresting officers on the night of the incident, and, by the time of the April 19, 2022 email, was the Lead Investigator on the case.
25. In that email, Mr. Sweeney informed Officer Esposito that Mr. Sweeney had received “new information” from Mr. Schulz and asked if Officer Esposito would “look into” it. Mr. Sweeney asked Officer Esposito to speak with the witness with whom Mr. Schultz claimed to be speaking on the phone at the time of the incident, and to “find out what he remembers about the phone conversation.” After sending the email, he assumed he would soon receive a response from Officer Esposito and could review that response for possible *Zwicker* disclosures.
26. Having placed these questions in Officer Esposito’s “court,” Mr. Sweeney, in the moment, had them somewhat out of his mind. However, as it turned out, and as he only discovered in the course of producing emails to the ADO, Mr. Sweeney used an incorrect email address for Officer Esposito.³ He never received, however, a

³ Mr. Sweeney sent the email to jesposito@manchesternh.gov. The correct email for Officer Esposito is jesposit@manchester.gov.

- “bounce back” or “undeliverable” message in this regard.
27. Had Mr. Sweeney received an undeliverable email, the issue of the new information provided by Mr. Schultz during the meeting would have entered his immediate attention again and prompted further action on his part. (The ADO likewise sent an email to the incorrect email address that Mr. Sweeney used for Officer Esposito and received no undeliverable message).
 28. By way of further context, during this period Mr. Sweeney was handling over 30 cases, supervising approximately 22 attorneys and staff, and was responsible for the day-to-day operations of the HCAO.
 29. These facts provide context for why Mr. Sweeney did not disclose the April 2022 notes (or the content of the notes) as *Zwicker* material, but he acknowledges that the duty to disclose it rested with him and that he failed to do so.
 30. On July 14, 2022, the parties conducted a settlement conference which the alleged victim attended. On July 15, 2022, Mr. Robidas asked Mr. Sweeney via email whether any *Zwicker* material resulted from the State’s meeting with Mr. Shultz during the settlement conference. Mr. Sweeney responded the same day via email: “[n]o *Zwicker* material resulted from my interactions with the victim during our settlement conference.”
 31. Mr. Sweeney would testify that he answered the question from defense counsel truthfully, and as it was asked, *i.e.* whether new or material information was received from Mr. Schultz on the day of the settlement conference. The inquiry on July 15, 2022 from defense counsel simply did not trigger Mr. Sweeney’s memory concerning his April 2022 meeting with Mr. Schultz.

March 2023: Mr. Sweeney, Mr. Bernatz, and Mr. Charland
Meet with the Alleged Victim

32. On February 14, 2023, Mr. Bernatz and Mr. Charland filed their appearances in the Case. Trial was eventually scheduled for March 21, 2023.

33. Mr. Sweeney was assigned to do the direct examination of Mr. Schultz. To prepare Mr. Schultz for trial, Mr. Sweeney, Mr. Bernatz, and Mr. Charland met with him on March 7, 2023.
34. Mr. Charland was assigned to take notes of the meeting. He took about two and a half pages of handwritten notes. These notes contained information about the incident that Mr. Charland represented to the ADO was “new and different” in certain respects to previous statements by Mr. Schultz. Mr. Charland’s handwritten notes have a few asterisks or stars by certain information, and one notation reads “Zwicker?”
35. When back at the office, Mr. Charland typed up the notes of the meeting and emailed them to Mr. Sweeney on March 8, 2023, stating simply “[h]ere is my type up of my notes from yesterday.”⁴
36. The email does not contain any further message, nor any “flagging” for Mr. Sweeney of potential *Zwicker* disclosures. However, within the Word document, Mr. Charland had highlighted certain portions in yellow. Mr. Charland represented to the ADO that the highlighted portions contained information that he believed might be *Zwicker* material.
37. This included information about (1) the last time that Mr. Schultz saw the defendant prior to the incident (one a half weeks before the incident, versus a previous statement by Mr. Schultz that it had been five months); (2) a statement by Mr. Schultz that the defendant yelled “I’m going to kill you!” (Mr. Schultz had previously told police the defendant had not threatened to kill him); and (3) that defendant had thrown a stool across the room (Mr. Charland’s typed up notes stated, “first I’ve heard of this”).
38. Mr. Sweeney would testify that he has no independent recollection of reviewing Mr. Charland’s “type up” of the notes. Mr. Charland confirmed to the ADO he

⁴ The “type up” was a Word document wherein Mr. Charland recreated his handwritten notes in Word format. Mr. Charland attached the Word document to his email to Mr. Sweeney.

never heard anything further from Mr. Sweeney regarding this email and the attached Word document reflecting his notes.

39. By way of further context, Mr. Charland and Mr. Bernatz both represented to the ADO that at no point during the pendency of the Case did Mr. Sweeney instruct them *not* to disclose certain material to the defense. Rather, in the aftermath of the two meetings with Mr. Schultz at which the younger lawyers were present, there was simply no further discussion of any disclosure obligation at all.
40. Though Mr. Charland's email to Mr. Sweeney dated March 8, 2023 included no substantive comment or question about *Zwicker*, Mr. Charland represented to the ADO that he assumed Mr. Sweeney would review the "type up," and believed Mr. Sweeney would understand the nature of the highlighted portions in the Word document for a few reasons. Mr. Sweeney was first chair, Mr. Sweeney was responsible for Mr. Schultz's direct examination, and Mr. Sweeney had been on the case since December 2021, whereas the younger lawyers had been on the case only a few weeks. In addition, Mr. Bernatz had to leave about halfway through the meeting on March 7, 2023, so he was certainly not in the best position to make this determination.
41. Mr. Bernatz and Mr. Charland therefore believed Mr. Sweeney was in the best position to determine whether *Zwicker* disclosures were in order. In this respect, and importantly, Mr. Sweeney has never contended otherwise, and has been accountable to the ADO in his capacity as the senior attorney handling the Case.

November 2023: Mr. Sweeney, Mr. Bernatz, and Mr. Charland
Meet with the Alleged Victim

42. In March of 2023, the trial was continued to November 6, 2023. Mr. Sweeney attended the final pre-trial conference on October 26, 2023 without Mr. Bernatz and Mr. Charland present.

43. By this date, Mr. Sweeney had registered for a continuing legal education course⁵ in Dallas that, by October 2023, appeared to possibly conflict with the trial date. His best recollection is that he would have mentioned this to Mr. Bernatz and Mr. Charland after the final pre-trial conference to ensure they would be comfortable moving forward with the trial without him.
44. Mr. Bernatz and Mr. Charland represented to the ADO that they could not recall exactly when they heard that Mr. Sweeney would be out of town for the trial, but both believed it was sometime *after* the final meeting with Mr. Schultz on November 6, 2023 to prepare him for trial, which all three attorneys attended. In addition, Mr. Bernatz and Mr. Charland represented to the ADO that while they were a bit “surprised” to hear Mr. Sweeney would not be present for the trial, both agreed they could handle it. Both attorneys represented to the ADO that they appreciate that the HCAO is a work environment that provides early opportunities for significant trial experience.
45. In any event, on November 6, 2023, all three attorneys met again with Mr. Schulz to prepare him for trial.
46. Mr. Charland again took handwritten notes. The notes reflect statements by Mr. Shultz concerning the stool being thrown, and that an argument began because Mr. Schultz told the defendant “You don’t seem upset” in response to the fact that the defendant was evidently claiming her brother died of covid. This conflicted with what other witnesses, including Ms. Rios-Rodriguez and the Mr. Schultz’s children told the police, which was that Mr. Schultz had gotten upset over seeing flowers in her apartment and was accusing Ms. Rios Rodriguez of cheating. According to the defense, the evidence at the scene supported Ms. Rios Rodriguez and the children’s version, as there were flowers thrown in the apartment. The

⁵ Mr. Sweeney registered for the course in July of 2023 with the approval of the County Attorney. By this time, trial was scheduled for November 6, 2023, but Mr. Sweeney did not think there would be a conflict. Mr. Sweeney confirmed with Attorneys Charland and Bernatz that they could handle the trial without his participation.

information shared by Mr. Schultz went to his credibility and could have been used to impeach him.

47. Mr. Charland did not type up his notes from the November 6, 2023 meeting, in part because he left the meeting early, with Mr. Bernatz and Mr. Sweeney staying until the end of the meeting. Mr. Sweeney represented to the ADO that he simply has no recollection of having reviewed the notes from Mr. Charland from either the March or November 2023 meetings.
48. At the time, Mr. Sweeney operated based on what he heard from Mr. Schultz (again, without reviewing the notes of Mr. Charland), and he felt that the meetings did not result in materially different information from Mr. Schultz than that which had previously been disclosed to the defense.
49. He acknowledges in retrospect that comparing the early statements from Mr. Schultz, with the April 2022, March 2023, and November 2023 handwritten notes, he should have noted “new and different” information which was material, and he should have written *Zwicker* letters. He acknowledges that he negligently failed to do this.

November 13, 2023: First Day of Trial Results in a Mistrial

50. On November 13, 2023, the trial commenced with Mr. Bernatz and Mr. Charland representing the State. The State’s opening statement raised defense counsel’s suspicions that the State had failed to disclose material discovery. After the opening statement, Judge Delker questioned the State about their failure to disclose information to defense counsel. The Court then ordered that all “raw notes” from any meetings that the State had with the alleged victim be provided to defense counsel. The Court then called a recess.
51. Mr. Charland and Attorney Bernatz returned to their office to find any and all notes of meetings with Mr. Schultz. They consulted with Patrick Ives, Esq., the head of the HCAO’s Major Crimes Unit, in Mr. Sweeney’s absence. A legal assistant named Eva Reardon also assisted in the search for notes.
52. Mr. Ives called Mr. Sweeney and was able to reach him. In interviews with the ADO,

neither Mr. Sweeney nor Mr. Ives could recall details of the conversation, other than to both note their priority was to comply with Judge Delker's order from the bench. Mr. Charland was able to fairly quickly find his handwritten notes (and one "type up" of the March 2023 notes).

53. However, no one located Mr. Sweeney's handwritten notes from the April 2022 meeting, and Mr. Sweeney, assisting as able from the Dallas CLE on the first day of trial, did not recall that meeting and would not have flagged it for his subordinates to ensure it was part of the search.
54. Attorney Charland and Attorney Bernatz returned to the courthouse and provided defense counsel and the Court with notes from meetings with the alleged victim in March and November 2023. Upon resuming proceedings, and further colloquy with the Court, the defense moved for a mistrial. The State did not object, and the Court granted it.
55. The Court set an evidentiary hearing for November 22, 2023 to determine "whether the case should be dismissed with or without prejudice." The Court granted, *sua sponte*, the right of the defense to take the deposition of Mr. Schultz and any other material witness.

Events After the Mistrial and *Nole Prosequi* on March 4, 2024

56. The November 22, 2023 evidentiary hearing was converted to a scheduling conference. In early December 2023, Eva Reardon located Mr. Sweeney's handwritten notes from his April 2022 meeting with Mr. Schultz. These were located in a manila folder, which was with the "physical file" in her workstation, to the best of Mr. Sweeney's recollection. Mr. Bernatz likewise recollects that Ms. Reardon located the April 2022 notes.⁶ In any event, the handwritten notes

⁶ Evidently the HCAO's goal is to ensure a file is 100% electronic, using case management software called "PBK" (Prosecutor by Karpel"), specifically designed for prosecutors. However, the *Rios* matter had been pending since April 2020, had two attorneys handling it before Mr. Sweeney, and had lingered due to COVID delays. The file was therefore mostly in electronic form, but not entirely in that form. In addition, Mr. Sweeney's legal assistant changed a few times since his start date in December 2021.

were promptly disclosed to the defense.

57. The State *nol prossed* the matter in March 2024 because Mr. Schultz had failed to appear at a scheduled deposition, then failed to appear after being subpoenaed by the defense. Mr. Schultz thereafter stopped cooperating with the prosecution completely, and the State determined it could not carry its burden of proof.

Remedial Efforts Following the *Rios* Mistrial

58. After the mistrial, Mr. Sweeney instituted a procedure for all county attorney in Hillsborough County North to avoid similar disclosure failures in the future. This requires that when scheduling witness interviews, legal assistants enter the interview into PBK as an event, including a reminder that appears one day after the scheduled interview (in the form of a “pop up” reminder on the computer) for the county attorney to review their notes for possible *Zwicker* disclosures. Eva Reardon and Mr. Charland and Mr. Bernatz confirmed this procedure is in place.
59. In addition, Mr. Ives had already been performing annual training on *Zwicker* disclosures with all county attorneys in Hillsborough County North during the time frame of these events. Mr. Charland and Mr. Bernatz confirmed that though they had not attended this presentation at the time of the trial in this matter, they have since participated in it.

B. Disciplinary Rules Violated

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

Rule 3.8: Special Responsibilities of a Prosecutor

61. The facts set forth at ¶¶ 1-60 above are incorporated by reference.
62. Rule 3.8 states, in pertinent part:

The prosecutor in a criminal case shall:

(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information

- known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;
63. Mr. Sweeney’s failure to disclose *Zwicker* material resulting from his meetings with the alleged victim on April 19, 2022, March 7, 2023, and November 6, 2023 violates Rule 3.8(d).

Rule 8.4(a): General Rule

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

C. Recommended Sanction

65. The Attorney Discipline Office and Mr. Sweeney jointly agree that a reprimand is the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.
66. Both case law and the American Bar Association’s *Standards for Imposing Lawyer Sanctions* (2005) (“*Standards*”) support this sanction.
67. 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).
68. 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.
69. 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”).

70. Under the first prong of the analysis, Mr. Sweeney violated his duty to the legal system. As an officer of the court, and a prosecutor imbued with special duties under Rule 3.8, Mr. Sweeney was bound to “abide by the rules of substance and procedure which shape the administration of justice.” *See Standards* § II (“Theoretical Framework”) (setting forth duties owed to “legal system”).
71. With respect to Mr. Sweeney’s mental state under the second prong of the sanction analysis, the parties agree that Mr. Sweeney’s mental state was negligent for the reasons set forth above.
72. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Mr. Sweeney’s misconduct.
73. Mr. Sweeney’s conduct caused injury to the legal system in that a jury had been impaneled, a mistrial was declared, and thereafter the matter was *nol prossed* as Mr. Schultz’s cooperation waned and then ceased.
74. Mr. Sweeney’s 3.8 rule violation implicates Section 5.2 of the *Standards*. *See* Appendix 1, “Cross-Reference Table: ABA Model Rules of Professional Conduct and Standards for Imposing Sanction.” Section 5.2 provides:

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 public officials who engage in conduct that is prejudicial to the administration of justice or who state or imply an ability to influence improperly a government agency or official:

 - 5.21 Disbarment is generally appropriate when a lawyer in an official or governmental position knowingly misuses the position with the intent to obtain a significant benefit or advantage for himself or

another, or with the intent to cause serious or potentially serious injury to a party or to the integrity of the legal process.

5.22 Suspension is generally appropriate when a lawyer in an official or governmental position knowingly fails to follow proper procedures or rules, and causes injury or potential injury to a party or to the integrity of the legal process.

5.23 Reprimand is generally appropriate when a lawyer in an official or governmental position negligently fails to follow proper procedures or rules and causes injury or potential injury to a party or to the integrity of the legal process.

5.24 Admonition⁷ is generally appropriate when a lawyer in an official or governmental position engages in an isolated instance of negligence in not following proper procedures or rules, and causes little or no actual or potential injury to a party or to the integrity of the legal process.

(emphasis added).

75. Given Mr. Sweeney's negligent state of mind, and the injury caused, the baseline sanction is a public censure pursuant to *Standard 5.23*.
76. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.
77. In this case mitigators include absence of a disciplinary record, absence of a dishonest motive, timely good faith effort to rectify consequences of misconduct (*i.e.* efforts made to locate all relevant notes and disclose them promptly), full and free disclosure to the ADO and cooperative attitude towards proceedings, and remorse. *See Standards* § 9.32.
78. These mitigators outweigh the single aggravator in this matter: Mr. Sweeney's substantial experience in the practice of law. *See Standards* § 9.22.
79. The parties agree that given the baseline sanction, and consideration of aggravating and mitigating circumstances, a downward departure to a reprimand

⁷ 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.

serves the purposes of discipline and is an appropriate sanction in this case.

80. The parties could not locate a New Hampshire disciplinary matter involving a Rule 3.8(d) violation. However, other jurisdictions have recognized that a negligent Rule 3.8(d) violation generally merits an admonition (reprimand in New Hampshire) or reprimand (public censure in New Hampshire). *See In re Feland*, 820 N.W.2d 672, 684-685 (N.D. 2012) (imposing equivalent of public censure in New Hampshire, without analyzing aggravating and mitigating circumstances).

D. Costs

81. Subject to the PCC's approval of Mr. Sweeney's Stipulation, Mr. Sweeney 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. Sweeney.

E. Effect of Stipulation

82. Mr. Sweeney 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).
83. Mr. Sweeney 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.
84. Mr. Sweeney has been represented by counsel in reaching this Stipulation.

85. Mr. Sweeney knowingly and intelligently waives his right to a hearing.

Respectfully submitted,

Dated: 08/11 2025



Shawn P. Sweeney, Esquire
Respondent

Dated: _____ 2025

Russell F. Hilliard, Esquire
Counsel for Respondent

Dated: _____ 2025

Sara S. Greene, Esquire
Disciplinary Counsel

85. Mr. Sweeney knowingly and intelligently waives his right to a hearing.

Respectfully submitted,

Dated: _____ 2025

Shawn P. Sweeney, Esquire
Respondent

Dated: 8/4 2025

Russell F. Hilliard

Russell F. Hilliard, Esquire
Counsel for Respondent

Dated: 8/12 2025

Sara S. Greene

Sara S. Greene, Esquire
Disciplinary Counsel