

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**ORDER**

**LD-2017-0017, In the Matter of James E. Michalik, Esquire**

On December 1, 2017, the Attorney Discipline Office (ADO) notified the Supreme Court that the respondent, Attorney James E. Michalik, had been convicted, on two occasions, of violating a domestic violence restraining order. See RSA 173-B:9, III. The court referred the matter to the ADO for further action, if appropriate.

The ADO filed a notice of charges alleging that the respondent, by his conduct, had violated Rules of Professional Conduct 8.1, 8.4(a), and 8.4(b), as well as Supreme Court Rule 42(XIV). The respondent failed to respond to the notice of charges. In accordance with Supreme Court Rule 37A(III)(b)(3)(A), the respondent was deemed to have admitted the charges. A hearing on the issue of the appropriate sanction was scheduled before a hearing panel. The respondent failed to appear for the sanction hearing. The hearing panel recommended that the respondent be suspended from the practice of law for two years, and it recommended that the respondent be assessed the cost and expenses incurred by the ADO in investigating and prosecuting the matter. The Professional Conduct Committee (PCC) reviewed the hearing panel's findings and recommendation and approved the recommended sanction.

The PCC filed its recommendation for discipline with the court on December 17, 2018. In accordance with Rule 37(16)(c), an order was issued notifying the respondent of the PCC's recommendation. The order also notified the respondent and disciplinary counsel of their right to identify legal or factual issues that they wished the court to review. The order was sent to the respondent at the latest address that he provided to the New Hampshire Bar Association, but the order was returned by the United States Postal Service as undeliverable. In accordance with Rule 42E, notice sent to an address provided by an attorney to the New Hampshire Bar Association shall be deemed sufficient notice to the attorney of court action. Accordingly, the respondent is deemed to have been served with the order.

Neither the respondent nor disciplinary counsel requested review of any legal or factual issue. Having reviewed the PCC's recommendation and the record in this matter, the court concludes that briefing and oral argument is unnecessary.

The hearing panel and the PCC found that the respondent violated the following Rules of Professional Conduct:

1. Rule 8.1, by failing to respond to a lawful demand for information from a disciplinary authority;
2. Rule 8.4(b), by committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; and
3. Rule 8.4(a), by violating the Rules of Professional Conduct.

The PCC also found that the respondent violated Supreme Court Rule 42, XIV by failing to notify the New Hampshire Bar Association of his residence and office address.

After reviewing the PCC's recommendation and record, the court accepts the PCC's findings and its recommendation as to the appropriate sanction. Accordingly, the court orders as follows:

- (1) Attorney James E. Michalik is suspended from the practice of law in New Hampshire for a period of two years.
- (2) Attorney Michalik is ordered to reimburse the ADO and PCC for the costs and expenses they incurred in the investigation and prosecution of this matter.
- (3) Attorney Michalik is ordered to comply with the provisions of Supreme Court Rule 37(13).
- (4) Within 30 days of this order, Attorney Michalik shall file with this court an affidavit showing that he has fully complied with the requirements of Rule 37(13). A copy of the affidavit shall be sent to the ADO.

Lynn, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: May 6, 2019

ATTEST:

  
**Eileen Fox, Clerk**

Distribution:

Brian R. Moushegian, Esquire  
James E. Michalik, Esquire  
David M. Rothstein, Esquire  
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