

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
Ronald K. Ace*
Kathleen M. Ames*
Peter G. Beeson
Richard C. Guerriero, Jr.

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

Margaret R. Kerouac
Caroline K. Leonard
Mona T. Movafaghi
Georges J. Roy*
Martha Van Oot
* non attorney member
Barbara J. Guay, Legal Assistant

Randall, Shelley M. advs. Attorney Discipline Office - #17-036

REPRIMAND


On September 18, 2018, the Professional Conduct Committee issued a Diversion Order. The Attorney Discipline Office has filed a Motion to Impose Reprimand for Breach of Condition of Diversion, specifically, that Ms. Randall take courses qualifying for at least six hours of CLE credit beyond the minimum requirement. On October 13, 2019, Ms. Randall informed Disciplinary Counsel that she has “decided not to complete any more CLE’s and I have resigned from the NH Bar Association effective October 1. I understand that that the reprimand may be imposed.”

The Motion to imposed is attached as **Exhibit A**. Ms. Randall’s conduct violated Rules of Professional Conduct 1.1 and 8.4(a), as stipulated.

A Reprimand is appropriate. The 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”).

Having approved the stipulated sanction, the Committee approves the agreement that Shelley M. Randall shall reimburse the Committee for all costs of investigation and prosecution of this matter.

November 4, 2019



David M. Rothstein
Chair

cc: Sara S. Greene, Disciplinary Counsel
Shelley M. Randall, Esquire
File

**NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE**

Randall, Shelley M.

advs.

Attorney Discipline Office

#17-036

**MOTION TO IMPOSE REPRIMAND FOR BREACH OF
CONDITION OF DIVERSION**

NOW COMES Sara S. Greene, Esquire, Disciplinary Counsel, and respectfully requests that the Professional Conduct Committee (“PCC”) impose a reprimand in accordance with paragraph 13(a) of the Diversion Agreement signed by Respondent, Shelley M. Randall, Esquire, on August 2, 2018. ¹

In support of this Motion, undersigned counsel states as follows:

1. On August 2, 2018, Ms. Randall signed a Resubmitted Stipulation as to Facts, Violations and Sanction: Diversion as well as a Diversion Agreement.
2. The PCC approved the terms of the Resubmitted Stipulation and Diversion Agreement by Order dated September 18, 2018.

¹ The PCC’s Order, Resubmitted Stipulation as to Facts, Violations, and Sanction: Diversion, and Diversion Agreement are attached hereto as Exhibit 1.

3. The terms of the Diversion Agreement were to be completed within one year of the PCC's Order accepting the Diversion Agreement. Accordingly, completion of the terms of the Agreement was to be on or before September 18, 2018.
4. Paragraph 12 of the Diversion Agreement required that Ms. Randall:
 - a. Complete six (6) additional credits of CLE, approved by the ADO, beyond the minimum required by the New Hampshire Bar Association (emphasis added), and
 - b. For a period of one year, beginning on the date the Committee approves the Agreement, not engage in any professional misconduct.
5. Although Ms. Randall did complete the minimum CLE requirements required by the New Hampshire Bar Association for the 2018 reporting year, she did not complete the six additional credits for CLEs as agreed upon in the Diversion Agreement.
6. On September 18, 2019, Disciplinary Counsel sent a letter to Ms. Randall via email and first-class mail regarding her failure to comply with the six (6) additional CLE credit requirement under the Diversion Agreement. This letter afforded Ms. Randall the opportunity to comply with the CLE requirements by taking the 6 additional CLE credits by the end of October 2019. Disciplinary Counsel also informed Ms. Randall that a Reprimand may be

imposed if she failed to comply with these requirements. See Exhibit 2.

7. On October 15, 2019, Ms. Randall informed Disciplinary Counsel via email that, "I have decided not to complete any more CLE's and I have resigned from the NH Bar Association effective October 1. I understand that the reprimand may be imposed. Thank you." See Exhibit 3.

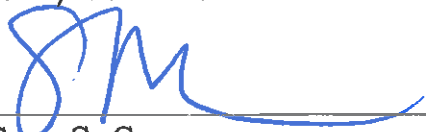
WHEREFORE, undersigned counsel respectfully requests that the Professional Conduct Committee grant the following relief:

- (A) Impose a reprimand as discipline in this matter;
- (B) Assess Ms. Randall all costs incurred by the ADO in seeking to impose the Reprimand in this matter; and
- (C) Grant any further relief this Committee deems fair and just.

New Hampshire Supreme Court
Attorney Discipline Office
4 Chenell Drive, Suite 102
Concord, New Hampshire 03301
(603) 224-5828

Date: October 16, 2019

By:

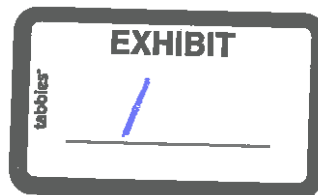

Sara S. Greene
Disciplinary Counsel

CERTIFICATION

I, Sara S. Greene, Disciplinary Counsel for the New Hampshire Supreme Court Attorney Discipline Office, certify that a copy of this "Motion to Impose Reprimand for Breach of Condition of Diversion" is being sent on this 16th day of October 2019 to Shelley M. Randall, Esquire, 356 Owl Brook Road, Holderness, NH 03245 via first class mail and email.



Sara S. Greene
Disciplinary Counsel



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
Ronald K. Ace*
Kathleen M. Ames*
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
Georges J. Roy*
Martha Van Oot
Daniel E. Will
* non attorney member
Barbara J. Guay, Legal Assistant

Randall, Shelly M. advs. Attorney Discipline Office - #17-036

DIVERSION AND ORDER ON COSTS

On September 18, 2018, the Professional Conduct Committee ("the Committee") deliberated the Resubmitted Stipulation as to Facts, Violations and Sanction: Diversion ("the Stipulation," attached as **Exhibit A**), Diversion Agreement (attached as **Exhibit B**), and the Agreement to Pay Costs of Disciplinary Matter (attached as **Exhibit C**).

The Committee approved the facts as stipulated by clear and convincing evidence. It further found that Shelley M. Randall's conduct violated Rules of Professional Conduct 1.1 and 8.4(a), as stipulated.

The Committee also concluded that Diversion 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").

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

September 18, 2018



Elaine Holden
Elaine Holden
Vice Chair

cc: Sara S. Greene, Disciplinary Counsel
Shelly M. Randall, Esquire
File



NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Randall, Shelley M.

advs.

Attorney Discipline Office

#17-036

**RESUBMITTED STIPULATION AS TO FACTS, VIOLATIONS,
AND SANCTION: DIVERSION**

Respondent Shelley M. Randall, Esq., and the Attorney Discipline Office (ADO) stipulate as follows:

A. Facts

1. Shelley M. Randall is an attorney licensed to practice law in New Hampshire. Ms. Randall was admitted to practice on May 24, 2004
2. Ms. Randall was also admitted to practice law in Massachusetts on June 20, 1997. She is currently on retired status with the Massachusetts Bar.
3. At all times material to this proceeding, Ms. Randall practiced law at Brown, Bouchard and Randall, PLLC, 2 Greenwood Avenue, 2nd Floor, Concord, NH 03301.
4. Ms. Randall does not have a previous disciplinary history.
5. This disciplinary matter was initiated by a referral from Judge Susan R. Carbon, which enclosed a Motion for Appointment of Counsel ("Motion") that had been filed by Ms. Randall in a case involving a minor ("the Minor") whose legal custodian at the time was the Division of Children, Youth, and Families ("DCYF").

6. Judge Carbon wrote that Ms. Randall indicated in her Motion that she was filing it on the Minor's behalf. "In speaking with the minor a few weeks later at a regularly scheduled review hearing, I learned from [him] that he had no idea anyone had filed such a motion, let alone this particular attorney." Judge Carbon referred the matter to the ADO, concerned that Ms. Randall's conduct may have violated Rule 3.3.
7. By way of background, one of the Minor's parents had died, and the other parent had all parental rights terminated. The Minor was thus eligible for adoption at the time Ms. Randall filed her Motion. The Minor had been in foster care for several years with the same foster mother ("Ms. R."), but was removed from Ms. R's care by the time Ms. Randall became involved. Ms. R. had previously filed an unsuccessful motion to intervene in the DCYF case.
8. Ms. R thereafter told Ms. Randall that the Minor was in a Massachusetts residential placement and had told the CASA GAL that he did not wish to remain there. Ms. R hired Ms. Randall to file a request for Ms. Randall to be appointed the Minor's attorney and advocate for placement outside the residential facility, possibly back with Ms. R as foster parent.
9. New Hampshire RSA § 169 governs "Children in Need of Services." It governs court "records of proceedings" involving minors and makes them confidential except as to certain persons, including juvenile probation officers, a parent, a guardian, a custodian, the minor's attorney, and others as "may be granted by [the] court." See RSA § 169-D:25(II).

10. At the time of speaking with Ms. R, Ms. Randall did not believe Ms. Randall fell into any of the categories above. Ms. Randall was not yet the Minor's attorney, and Ms. R was no longer his guardian or custodian. (DCYF was the Minor's custodian after he was removed from foster care with Ms. R).
11. For this reason, Ms. Randall did not review the paperwork that Ms. R. brought with her concerning the Minor's court case, nor did she contact the Minor. Her concern at the time was that she not run afoul of the confidentiality provisions of the statute. Based on Ms. R.'s assurances that the minor disagreed with the CASA recommendation that he be in the residential placement, Ms. Randall filed the Motion seeking to be appointed counsel.¹
12. The Motion filed by Ms. Randall contains the following representations:
 - a. "NOW comes [the minor] in the above matter and by and through retained counsel, Shelley Randall Esq., respectfully requests this Court appoint counsel for [the Minor] in the above entitled matter as follows.";
 - b. "Upon information and belief, [the Minor] wishes to be returned to his former foster parent's home.";
 - c. "Upon information and belief, [REDACTED] has made this wish known to his assigned CASA GAL who has indicated a move back into his foster home is not in his best interests."

¹ Ms. Randall's Motion was predicated on RSA § 169-C:10(II)(a), allowing for appointment of counsel for a neglected or abused child where the child's interests conflict with the "recommendation for dispositional orders of the guardian ad litem."

13. Ms. Randall believed at the time of drafting the Motion that using the term "upon information and belief" was sufficient to indicate that she had not actually spoken with the Minor.
14. Ms. Randall agrees that despite her use of the language "upon information and belief," her Motion as filed leaves the impression that Ms. Randall had spoken with the Minor and knew what his expressed wishes were.
15. Ms. Randall states that she used the phrase "retained counsel" in the Motion because she wanted to express to the Court that she had in fact been retained (by the Minor's former foster mother, though her Motion does not make this clear). At the same time, the Motion was captioned "Motion for Appointment of Counsel," and the Prayer for Relief asked the Court to "appoint Shelley Randall, Esq. as counsel for [the Minor] in the above docketed matter and allow her to appear on [his] behalf to advocate for his interests."
16. Ms. Randall agrees that drafting the Motion in this fashion was at a minimum careless. This drafting, however, also undermines any notion that she was attempting to mislead the Court. It makes little sense to, on the one hand, assert that she had already been retained by the Minor (if this was the "knowing" misrepresentation), while at the same time request to be appointed counsel for the Minor (a request which conflicts with the purported misrepresentation).
17. Disciplinary Counsel spoke with the attorney for DCYF in this juvenile matter, as well as two New Hampshire practitioners who primarily practice family law, including juvenile/DCYF matters. These practitioners agreed that the confidentiality provisions of RSA § 169 are "tricky" and ambiguous. Nonetheless,

all agreed that implicit in the statute is the ability of a Minor to speak with a prospective attorney for the purpose of securing legal advice. These attorneys agreed that the most appropriate course, given that DCYF was technically the Minor's custodian, would have been for Ms. Randall to contact DCYF counsel and seek permission to speak with the Minor based on her conversation with Ms. R. If DCYF refused such permission, Ms. Randall could then have filed a clear and well-worded pleading with the Court seeking such access to the Minor.

18. Ms. Randall acknowledges that she used certain boilerplate language in her Motion that made her Motion at a minimum internally inconsistent and confusing. She admits she should have proceeded as noted in this Stipulation and regrets the sloppiness of her Motion. She did not, however, intend to mislead, or "knowingly" mislead, the court for the reasons noted herein.
19. Ms. Randall does admit, however, that her conduct violated the Rules of Professional Conduct as set forth below.

B. Diverted Rule Violations

20. The parties agree that Ms. Randall's conduct in this case involves violations of the New Hampshire Rule of Professional Conduct, as follows:

Rule 1.1: Competence

21. The facts set forth at ¶¶ 1-20 above are incorporated by reference.
22. Rule 1.1 states as follows:
 - (a) A lawyer shall provide competent representation to a client.
 - (b) Legal competence requires at a minimum:
 - (1) specific knowledge about the fields of law in which the lawyer practices;
 - (2) performance of the techniques of practice with skill;

- (3) identification of areas beyond the lawyer's competence and bringing those areas to the client's attention;
 - (4) proper preparation; and
 - (5) attention to details and schedules necessary to assure that the matter undertaken is completed with no avoidable harm to the client's interest.
- (c) In the performance of client service, a lawyer shall at a minimum:
- (1) gather sufficient facts regarding the client's problem from the client, and from other relevant sources;
 - (2) formulate the material issues raised, determine applicable law and identify alternative legal responses;
 - (3) develop a strategy, in consultation with the client, for solving the legal problems of the client; and
 - (4) undertake actions on the client's behalf in a timely and effective manner including, where appropriate, associating with another lawyer who possesses the skill and knowledge required to assure competent representation.

23. Ms. Randall violated Rule 1.1 when she failed to properly prepare her Motion for Appointment of Counsel and to attend to the details of said Motion, including gathering sufficient facts from the Minor directly, before filing it.

Rule 8.4(a): General Rule

24. Having found the foregoing violation, there is clear and convincing evidence that Ms. Randall's conduct, as described herein, violated N.H. R. Prof. Conduct 8.4(a).

C. Recommended Sanction

25. The Attorney Discipline Office and Ms. Randall jointly agree that a discretionary diversion is the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.

26. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.
27. 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).
28. 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.
29. 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").

30. Under the first prong of the analysis, Ms. Randall violated duties owed to her client and the court.
31. With respect to Ms. Randall's mental state under the second prong of the sanction analysis, the parties agree that Ms. Randall's mental state was negligent.
32. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Ms. Randall's misconduct.
33. Ms. Randall's conduct did not cause any actual injury to the Minor, and any potential injury was unlikely.
34. Under these circumstances, the parties agree that the baseline sanction in this matter is a reprimand. *See Standards* § 4.54.
35. Ms. Randall's 1.1 Rule violation implicates Section 4.5 of the *Standards*. That Section 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 failure to provide competent representation to a client:

- 4.51 Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.
- 4.52 Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client.
- 4.53 Reprimand [Public Censure] is generally appropriate when a lawyer:
 - (a) demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or
 - (b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

4.54 Admonition [Reprimand] is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether he or she is competent to handle a legal matter, and causes little or no actual or potential injury to a client.

(emphasis added).

36. Ms. Randall's conduct in this matter, when considered under *Standard 4.54*, would call for a baseline sanction of reprimand.
37. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.
38. In this case there is one aggravating factor, Ms. Randall's substantial experience in the practice of law, and many mitigating factors, including: absence of prior disciplinary history, absence of dishonest or selfish motive, full and free disclosure to and cooperative attitude towards the ADO, and remorse. See *Standards* §§ 9.22, 9.32.
39. The parties agree that given the baseline sanction, and the fact that mitigating circumstances outweigh the single aggravating factor, a diversion would serve the purposes of discipline and is an appropriate sanction in this case.

D. Reasons for Discretionary Diversion

40. The ADO and Ms. Randall jointly recommend discretionary diversion in this matter. N.H. Sup. Ct. R. 37A(l)(g)(3). The misconduct was the result of negligence, and there is a reasonable likelihood that Ms. Randall's successful completion of a remedial program will prevent the recurrence of similar conduct.
41. The conduct described above is minor misconduct as defined in Rule 37A(l)(c) (definitions).


42. Ms. Randall submits her Diversion Agreement simultaneously and in conjunction with this Stipulation. The Diversion Agreement is attached to this Stipulation and sets forth the conditions with which Ms. Randall must comply in order to have this matter diverted.
43. In short, the Diversion Agreement requires that Ms. Randall:
- a. complete six (6) additional credits of CLE, approved by the ADO, beyond the minimum required by the New Hampshire Bar Association; and
 - b. for a period of one year, beginning on the date the Committee approves the Agreement, not engage in any professional misconduct.

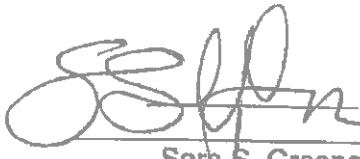
E. Effect of Stipulation and Agreement to Pay Costs

44. Ms. Randall 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).
45. Ms. Randall acknowledges that the admissions of misconduct and the proposed disposition contained in this Stipulation are freely, knowingly, and voluntarily submitted; that she 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
46. Ms. Randall understands that she has a right to obtain counsel regarding this Stipulation and, that she is fully aware of the consequences of the Stipulation.
47. Ms. Randall knowingly and intelligently waives her right to a hearing.
48. Subject to the PCC's approval of Ms. Randall's Stipulation, Ms. Randall agrees to pay the costs incurred by the ADO in the investigation and enforcement of this

disciplinary matter. See Supreme Court Rule 37(19). Her agreement to pay the costs incurred by the ADO is the subject of a separate agreement signed by Ms. Randall.

Respectfully submitted,

Dated:  _____ 7/31/2018
Shelley M. Randall, Esquire
Respondent

Dated:  _____ 8/2/2018
Sara S. Greene, Esquire
Disciplinary Counsel



**NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE**

Randall, Shelley M.

advs.

Attorney Discipline Office

#17-036

DISCRETIONARY DIVERSION AGREEMENT

Respondent **Shelley M. Randall, Esquire** (hereinafter "Respondent") and **Sara S. Greene, Disciplinary Counsel**, on behalf of the Professional Conduct Committee, hereby enter into the following Diversion Agreement (hereinafter "Agreement"):

1. The Respondent was admitted to the Bar of the New Hampshire Supreme Court on June 20, 1997 (bar number 16262). Respondent is subject to the jurisdiction of the New Hampshire Supreme Court in these proceedings.
2. The Respondent enters into this Agreement freely, intelligently and voluntarily, and understands the consequences of this Agreement.
3. This Agreement is a product of the Respondent's personal decision, and the Respondent affirms that she has been subjected to no coercion or other intimidating acts by any person or agency concerning this matter.
4. The Respondent is familiar with the rules of the New Hampshire Supreme Court regarding the procedures for discipline of attorneys and with her rights under those rules. N.H. Sup. Ct. R. 37 and 37A.

5. Respondent understands that this Agreement is undertaken as a discretionary diversion under the provisions of Rule 37A(l)(g)(3).
6. As part of this Agreement, Respondent shall sign the Resubmitted Stipulation as to Facts, Rule Violations and Sanction, admitting the facts of the complaint being diverted. N.H. Sup. Ct. R. 37A(l)(g)(4).
- 7 Respondent agrees that, in the event she fails to comply with the terms of this Agreement, the factual admissions and admissions of rule violations contained in the Stipulation as to Facts, Rule Violations and Diversion Agreement shall be deemed true in any subsequent disciplinary proceedings. N.H. Sup. Ct. R. 37A(l)(g)(4).
8. The misconduct in this matter is "minor misconduct" that is the result of negligence. N.H. Sup. Ct. R. 37A(l)(g)(3)(A).
9. There is a reasonable likelihood that the successful completion of a remedial program will prevent the recurrence of the misconduct which gave rise to this Agreement. N.H. Sup. Ct. R. 37A(l)(g)(3)(B)
10. The Respondent acknowledges that she has the right to a full and complete evidentiary hearing in this matter. At any such hearing, Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by Disciplinary Counsel. The Respondent understands that at such evidentiary hearing, Disciplinary Counsel would bear the burden of proving each material allegation of fact by clear and convincing evidence. Nonetheless, having full knowledge of her right to such evidentiary hearing, the Respondent waives that right.

11. Respondent understands and agrees that, in the event she fails to comply with any term or condition of this Agreement, the Agreement shall be terminated.
12. The Respondent agrees to the following terms and conditions for a period of one year, beginning on the date that the Professional Conduct Committee approves the Stipulation and Diversion Agreement:
 - a. Respondent shall complete six (6) additional credits of CLE beyond the minimum required by the New Hampshire Bar Association, and shall obtain the ADO's approval for such 6 additional credits in advance; and
 - b. Respondent shall, for a period of one year beginning on the date the Committee approves the Agreement, not engage in any professional misconduct.
13. If, however, Respondent fails to comply with any term or condition of this Agreement as set forth in paragraphs 12(a), *supra*, the Agreement shall be terminated. The Attorney Discipline Office shall notify the Professional Conduct Committee that the condition(s) have been violated.
 - a. The Professional Conduct Committee may determine whether any condition of this Agreement has been violated. If it determines that a condition has been violated, the Committee shall impose the agreed-upon sanction of a reprimand. If the Committee determines that no condition of this Agreement has been violated, the Agreement 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 of this Agreement has been violated. During such hearing, it shall be the burden of disciplinary counsel to demonstrate by a preponderance of the evidence that a condition listed in paragraph 12(a) has been violated.

- c. If a Hearing Panel determines that a condition has been violated, the Panel shall impose the agreed-upon sanction of a reprimand. If the Hearing Panel determines that no condition of the Agreement has been violated, the Agreement shall continue in force and effect pursuant to its terms.

14. This Agreement shall be terminated in the event Respondent engages in misconduct during a period of one year commencing on the date the Professional Conduct Committee accepts this Agreement (*see* ¶ 12(b), *supra*).

- a. The timing of any finding of such misconduct is not dispositive of the question of termination of this Agreement. Rather, so long as a complaint is filed within the one-year period referenced above ("the subsequent proceeding"), and the misconduct alleged occurred, at least in part, during the one-year period referenced above, this Agreement is subject to termination at such time as there is a finding of misconduct, even if such finding occurs beyond the one-year time period referenced above.
- b. The ADO agrees to expedite the processing and investigation of the subsequent proceeding and to adjudicate it in a timely manner, either by stipulation of the parties or before a panel appointed by the Hearings Committee.

- c. Pending the final adjudication of the subsequent proceeding, the matter underlying this Agreement shall not be dismissed.
 - d. Pursuant to New Hampshire Supreme Court Rule 37A(II)(7)(d)(2)(c)(v), the Respondent shall bear all costs associated with compliance and enforcement of the terms and conditions of this Agreement.
 - e. If there is a finding of misconduct in the subsequent proceeding (whether by stipulation or after a hearing by a Hearing Panel), then the misconduct admitted as part of this Agreement shall be considered "previous discipline" for purposes of the subsequent proceeding.
 - f. In addition, Respondent agrees that such "previous discipline," if used in the subsequent proceeding, shall be sanctioned with a reprimand. Respondent agrees that a reprimand is an appropriate sanction under the *ABA Standards* for the conduct admitted as part of this Agreement.
15. Nothing herein shall be construed to limit prosecution of any new complaint involving conduct of Respondent occurring during the referenced one-year time period.
16. The parties agree, subject to the provisions of paragraphs 12(a) and paragraphs 12(b), *supra*, that the Professional Conduct Committee should place this disciplinary matter in abeyance for one year, commencing on the date it approves the Resubmitted Stipulation and Diversion Agreement. If the ADO verifies at the expiration of that period that the Respondent has successfully complied with the conditions herein, the Professional Conduct Committee shall

dismiss this matter pursuant to New Hampshire Supreme Court Rule 37A(l)(g)(7), and no discipline shall be imposed in this case.

- 17 The Respondent is aware, pursuant to Rule 37A(l)(g)(5), that the fact of diversion shall be public.
18. The Respondent acknowledges by signing this Agreement that he/she understands and accepts all of the terms and conditions of this Agreement.

Respectfully submitted,

Dated:  _____ 7/31/ 2018
Shelley M. Randall, Esquire
Respondent

Dated:  _____ 8/2/2018
Sara S. Greene, Esquire
Disciplinary Counsel



NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Randall, Shelley M.

advs.

Attorney Discipline Office

#17-036

**AGREEMENT TO PAY COSTS
OF DISCIPLINARY MATTER**

1. Subject to the Professional Conduct Committee's approval of my Resubmitted Stipulation as to Facts, Violations and Sanction: Diversion in the above matter, 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. As of June 26, 2018, I have been informed that the costs are approximately \$14.75. Should further costs accrue in this disposition of this matter, 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.

3. 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.
4. 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.
5. 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).
6. I also agree to be responsible for all costs incurred as a result of the Attorney Discipline Office's collection efforts.

Respectfully submitted,

Dated:



7/31/ 2018

Shelley M. Randall
Respondent



New Hampshire Supreme Court

Attorney Discipline Office

4 Chenell Drive, Suite 102
Concord, New Hampshire 03301
603-224-5828 • Fax 603-228-9511
www.nhattyreg.org

Sara S. Greene
Disciplinary Counsel

Elizabeth M. Murphy
Assistant Disciplinary Counsel

Brian R. Moushagian
General Counsel

Mark F. Cornell
Deputy General Counsel

Andrea Q. Labonte
Assistant General Counsel

September 18, 2019

Shelley M. Randall, Esq.
356 Owl Brook Road
Holderness, NH 03245

RE: Randall, Shelley M. advs. Attorney Discipline Office #17-036

Dear Ms. Randall:

Thank you for forwarding your Certificates of Completion earlier this week.

Pursuant to the Diversion Agreement, you were required to complete six (6) additional credits of CLE above and beyond the 12 minimum credits required by the New Hampshire Bar Association.

I have reviewed the documentation you have provided and have spoken with the Bar Association. According to their records, as of June 30, 2019, you were short 99 minutes towards your minimum credits required by the Bar for the 2018 reporting year. Moreover, included in those 12 minimum credits for the reporting year 2018 were the CLEs that you have provided to this office. Since the CLEs you provided were included in the minimum 12 credits, you have not fulfilled the additional six (6) credits required by the Diversion Agreement.

I cannot move to close this matter until you take care of this. Please do so promptly, and I will not consider it a material breach of the Diversion Agreement. Please take an addition 6 credits of CLEs no later than the end of October 2019 and provide written documentation of same to this office.

I am sure you will take care of this, and I thank you in advance. If I do not hear from you, however, and confirm the additional CLEs, then I will need to move to impose the reprimand for failure to meet conditions. I trust this will not come to pass.

Please call me with any questions.

Sincerely,


Sara S. Greene
Disciplinary Counsel

SSG/eb

Sara Greene

From: Sara Greene
Sent: Wednesday, October 16, 2019 11:14 AM
To: Sara Greene
Subject: FW: Diversion Agreement

From: Shelley Randall <smrandall.bbriaw@gmail.com>
Sent: Thursday, October 10, 2019 9:14 AM
To: Sara Greene <sgreene@nhattyreg.org>
Subject: Re: Diversion Agreement

Hi Ms. Greene - I have decided not to complete any more CLEs and I have resigned from the NH Bar Association effective October 1. I understand that the reprimand may be imposed. Thank you.

On Fri, Sep 20, 2019 at 7:19 AM Shelley Randall <smrandall.bbriaw@gmail.com> wrote:
Thank you.

On Thu, Sep 19, 2019 at 8:27 AM Sara Greene <sgreene@nhattyreg.org> wrote:
We could still impose the reprimand, retired or not.

Sent from my iPhone

On Sep 19, 2019, at 8:19 AM, Shelley Randall <smrandall.bbriaw@gmail.com> wrote:

Thank you for clarifying this Ms. Greene. Please let me know the consequences I would face as an inactive retired attorney if I do not comply with taking the additional 6 CLE credits.

Thank you.

On Wed, Sep 18, 2019 at 11:04 AM Sara Greene <sgreene@nhattyreg.org> wrote:

Please see the attached letter Shelley. More is required of you per the Diversion Agreement. I look forward to hearing from you.

Sara