

NEW HAMPSHIRE SUPREME COURT  
PROFESSIONAL CONDUCT COMMITTEE

*a committee of the attorney discipline system*

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*Parks, Stephan P. advs. Attorney Discipline Office - #21-013*

**Corrected Recommendation: One Year Suspension, Stayed for Two Years, With Conditions**

On June 21, 2022, the Professional Conduct Committee deliberated the Stipulation as to Facts, Violations and Sanction in the above matter.

Having reviewed the Record, the Committee approved the Stipulation as to the facts by clear and convincing evidence. The Committee approved the findings of violations of the New Hampshire Rules of Professional Conduct as Stipulated to and to recommend a One Year Suspension, Stayed for Two Years with Conditions for violations of Rules 8.4(b) and 8.4(a).

The Committee orders Mr. Parks to pay the costs of the investigation and prosecution of this matter.

June 21, 2022

/S/ Caroline K. Leonard  
Caroline K. Leonard  
Vice Chair

cc: Sara S. Greene, Disciplinary Counsel  
Stephan P. Parks, Esquire  
File

**NEW HAMPSHIRE SUPREME COURT**  
**PROFESSIONAL CONDUCT COMMITTEE**

Parks, Stephan P.

advs.

Attorney Discipline Office

#21-013

**STIPULATION AS TO FACTS, VIOLATIONS,**  
**AND SANCTION: ONE YEAR SUSPENSION, STAYED FOR**  
**TWO YEARS WITH CONDITIONS**

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

**A. Facts**

1. Mr. Parks is an attorney licensed to practice law in New Hampshire. Mr. Parks was admitted to practice on October 27, 2003.
2. Mr. Parks was admitted to practice law in Massachusetts on February 10, 2012. He is currently on Administration Suspension in that jurisdiction for "Non-Registration." This suspension is not disciplinary in nature (*i.e.* does not involve violations of the Rules of Professional Conduct), but rather is administrative.
3. At all times material to this proceeding, Mr. Parks' law office address was Parks Doherty, PLLC with a mailing address of P.O. Box 594, Durham, NH.

4. Mr. Parks does not have a previous disciplinary history.
5. Mr. Parks is not practicing law at this time. He is employed full-time at Bottomline Technologies as an Appeals Auditor. His duties include applying legal expertise and best in class technology to perform a compliance review of law firm and vendor invoices. He does not handle any client funds.
6. By letter dated May 27, 2021, William M. Breault, Police Chief for Dover, New Hampshire notified the ADO that Mr. Parks had been charged with Indirect Criminal Contempt. The charges were then pending in court.
7. On December 8, 2021, Mr. Parks pled guilty to Disorderly Conduct Contrary to RSA 644: 2,III,C, a Class A misdemeanor, for “recklessly creating a breach of peace, public inconvenience, annoyance or alarm, by disrupting the lawful order of business of the Dover Police Department, after being told to desist.” The remaining charges were either dismissed or *nol prossed*.
8. The plea arose out of conduct in which Mr. Parks allegedly failed to turn over to Dover P.D. all firearms in his control after being served with a temporary protective order in regard to a dispute with his then landlord. All of the firearms were legally purchased and registered by Mr. Parks.
9. As to the failure to turn over certain weapons properly registered to him, Mr. Parks argued through criminal defense counsel that he acted in compliance with the order in turning over his firearms as required. The parties then reached the plea to Disorderly Conduct after the prosecutor

offered to dismiss the pending charges in exchange for a plea of guilty to disorderly conduct.

### **B. Disciplinary Rules Violated**

10. The parties agree that Mr. Parks' conduct in this case involves violations of the New Hampshire Rules of Professional Conduct, as follows:

#### **Rule 8.4(b): Commission of a Criminal Act**

11. The facts set forth at ¶¶ 1-10 above are incorporated by reference.
12. Rule 8.4(b) states as follows:

It is professional misconduct for a lawyer to:

- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

13. Mr. Parks' commission of the misdemeanor crime of Disorderly Conduct violates Rule 8.4(b).

#### **Rule 8.4(a): General Rule**

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

### **C. Recommended Sanction**

15. The Attorney Discipline Office and Mr. Parks jointly agree that a one year suspension, stayed for two years with conditions is the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.

16. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.
17. 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).
18. 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.
19. 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”).
20. Under the first prong of the analysis, Mr. Parks violated duties owed to the legal system because “[l]awyers must always operate within the bounds of the law, and cannot . . . engage in any illegal or improper conduct.” *See Standards*, Sec. II (“Theoretical Framework”). In addition, he violated duties to the general public. “The community expects lawyers to exhibit the highest standards of honesty and integrity, and lawyers have a duty not to engage in conduct involving . . . interference with the administration of justice.” *Id.*
  21. With respect to Mr. Parks’ mental state, the parties first note that the disorderly conduct statute contains “reckless” as the state of mind. This state of mind is not recognized by the *Standards*, which addresses negligent, knowing, or intentional states of mind only.
  22. “A person acts recklessly with respect to a material element of an offense when he is *aware of and consciously disregards* a substantial and unjustifiable risk that the material element exists or will result from his conduct.” N.H. RSA 626:2 (emphasis added). For the reasons set forth below, this definition is closer to a “knowing” mental state as defined under the *Standards* than a “negligent” one.
  23. The *Standards* define “knowledge” as a “*conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.*”

*Standards*, Sec. III (“Definitions”) (emphasis added). Rule 1.0(f) of the N.H.R. Prof. Conduct defines “knowingly” as “denot[ing] actual knowledge of the fact[s] in question. A person’s knowledge may be inferred from circumstances.” See also *In Re Wyatt’s Case*, 159 N.H. 285, 307, 982 A.2d 396, 413 (2009) (discussing “knowing” misconduct and stating “[w]hat is relevant . . . is the volitional nature of the respondent’s acts, and not the external pressures that could potentially have hindered his judgment.”).

24. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Mr. Parks’ misconduct.
25. Mr. Parks’ conduct injured the administration of justice in that his plea involves an admission that he “disrupted the lawful order of business of the Dover Police Department, after being told to desist.” This conduct also causes injury to public’s confidence in the Bar, as lawyers are expected to behave as officers of the court and refrain from conduct that prejudices the administration of justice.
26. Mr. Parks’ conduct did not harm a client.
27. The parties agree that the baseline sanction in this matter would be a suspension. However, for the reasons stated below, a stayed suspension would serve the purposes of discipline.
28. Mr. Parks’ 8.4 rule violation implicates Section 5.1 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 commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or in cases with conduct involving dishonesty, fraud, deceit, or misrepresentation:

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

**5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.**

5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.

5.14 Admonition is generally appropriate when a lawyer engages in any other conduct that reflects adversely on the lawyer's fitness to practice law.

(emphasis added).

29. Mr. Parks' conduct in this matter, when considered under *Standard* 5.12, would potentially call for a baseline sanction of suspension. The parties also note that *Standard* 5.12 requires conduct that "seriously" adversely reflects on a lawyer's fitness to practice. Here, Mr. Parks pled to a misdemeanor, for reckless conduct, that occurred while not

representing a client and which did not involve dishonesty. Nonetheless, because the plea notes that his conduct involved disrupting the work of the Dover police department, the parties agree the appropriate baseline sanction is a suspension.

30. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.
31. In this case there are two aggravating factors present: substantial experience in the practice of law and illegal conduct. *See Standards* § 9.22.
32. Mitigating factors include absence of prior disciplinary record, absence of dishonest or selfish motive, remorse, and full and free disclosure to the ADO. *See Standards* § 9.32.
33. The parties agree that the aggravating and mitigating factors do not merit a deviation from the baseline sanction of suspension, but do merit staying that suspension with conditions over a two-year period. Staying the suspension for two years with conditions will allow the ADO to: (a) confirm that Mr. Parks is compliant with all the requirements of his criminal plea, (b) is attending to his mental health, and (c) is refraining from any disciplinary misconduct.
34. The stay can be lifted, and the one-year suspension imposed, if Mr. Park's breaches any condition. This sanction serves the purposes of discipline, which are to protect the public and maintain the integrity of the profession.

**D. Conditions of Imposed Discipline and Procedures  
For Alleged Violation of Conditions**

35. Mr. Parks agrees to comply with the following conditions for two years, which shall begin on the date the Professional Conduct Committee accepts this Stipulation:

- a. Respondent shall supply Disciplinary Counsel with quarterly reports to confirm in detail Mr. Parks' compliance with the terms of the conditions of his criminal plea, which include requirements of good behavior and continued mental health treatment with proof of same to the State. The first report is to be provided to Disciplinary Counsel within 60 days of the date that the Professional Conduct Committee accepts the Stipulation, and subsequent reports thereafter at quarterly intervals/deadlines thereafter as set forth by the ADO. The quarterly reports shall be submitted directly to Disciplinary Counsel by Mr. Parks.
- b. Respondent shall pay the expenses incurred by the Professional Conduct Committee in connection with this investigation and prosecution, and if unable to pay in lump sum, shall agree to some form of payment plan with the PCC within 60 days of receiving an invoice from the PCC.
- c. Respondent will engage in no professional misconduct during the two-year period.

36. If it is alleged that Mr. Parks violated any of the conditions enumerated at Paragraph 35(a),(b) above, the following shall apply:
- (a) Upon motion by Disciplinary Counsel, the Professional Conduct Committee may determine whether any of the conditions enumerated at Paragraph 35(a),(b) have been violated. If it determines that a condition has been violated, the Committee shall lift the stay and impose a one-year 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 Paragraph 35(a),(b) 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 Paragraph 34(a),(b) has been violated.
  - (c) If a Hearing Panel determines that a condition has been violated, the Panel shall lift the stay and impose a one-year 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.

37. If a new grievance or referral is filed against Mr. Parks during the two-year period of the stay, thus implicating the condition at Paragraph 35(c), the following shall apply:

- (a) So long as a grievance or referral is filed within the one-year period of the stay (“the subsequent proceeding”), and the alleged misconduct occurred, at least in part, during the two-year period, the stay can be lifted and the one year suspension imposed at such time as there is a finding of misconduct in the subsequent proceeding, even if such finding occurs beyond the two-year period of the stay.
- (b) Pending the final resolution of the subsequent proceeding, the matter underlying this Stipulation shall not be closed.
- (c) If the conditions of Paragraphs 35(a),(b) have been met, Mr. Parks 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 two year period of stay.

- (f) If a grievance or referral is filed within the two-year period of the stay, Mr. Parks shall provide written notice to Disciplinary Counsel within thirty (30) days of receipt of notice of the grievance or referral, *time being of the essence*, along with supporting information or documentation.

### **E. Costs**

38. Subject to the PCC's approval of Mr. Parks' Stipulation, Mr. Parks 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. Parks.


### **F. Effect of Stipulation**

39. Mr. Parks 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).
40. Mr. Parks 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
41. Mr. Parks understands that he has a right to obtain counsel regarding this Stipulation and, that he is fully aware of the consequences of the Stipulation.

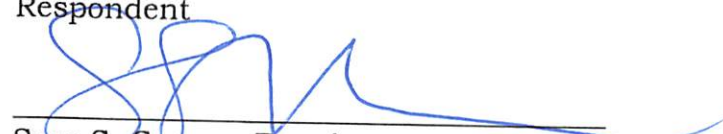
42. Mr. Parks knowingly and intelligently waives his right to a hearing.

Respectfully submitted,

Dated: MAY 12 2022

  
Stephan P. Parks, Esquire  
Respondent

Dated: 5/11/22 2022

  
Sara S. Greene, Esquire  
Disciplinary Counsel