

New Hampshire Supreme Court  
**Professional Conduct Committee**

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*Anderson, Michael E. advs. Attorney Discipline Office # 06-020*

**SIX MONTH SUSPENSION**

On January 16, 2007, the Professional Conduct Committee considered the above referenced matter. The Committee reviewed the Notice of Charges dated August 3, 2006, the Stipulation as to facts and the rules violated dated September 11, 2006, and the Stipulation as to Sanction dated October 16, 2006. In addition, each member of the Committee reviewed the Jointly Submitted Exhibits addressing the incidents leading up to the Notice of Charges and other related documents. All members of the Committee, with the exception of Alan J. Cronheim, were present.

Oral Argument was heard. Landya B. McCafferty, Disciplinary Counsel, appeared for the Attorney Discipline Office. Eugene Sullivan, III, Esquire, appeared for the Respondent. Mr. Anderson was also in attendance. After a period of questioning, Ms. McCafferty agreed to revise the language in the Stipulation as to Sanction for the Committee to address issues of accountability in the event of future criminal proceedings. The matter was tabled for counsel to modify the Stipulation as to Sanction and to resubmit it for the Committee's consideration.

On February 20, 2007, the Committee again took up this matter, having received the revised Stipulation as to Sanction on January 17, 2007. James R. Martin was absent.

The Professional Conduct Committee determined that the record supports the following facts, by clear and convincing evidence, and supported by stipulations:

**I. FINDINGS OF FACT**

1. Mr. Anderson is an attorney licensed to practice law in New Hampshire. Mr. Anderson was admitted to practice on October 28, 1996. At all times material to this proceeding, Mr. Anderson worked at the Runge Law Office, P.C., 141 Airport Road, Concord, New Hampshire, 03301. His current mailing address is 28 Martell Road, Chichester, New Hampshire, 03234.

2. At all relevant times, Mr. Anderson resided with his long-time partner, Patricia Murphy, and their 5 children.
3. On November 24, 2004, Mr. Anderson was convicted in Concord District Court of one count of Obstructing Report of Crime or Injury, a Class B Misdemeanor. The docket number of the case is 04-CR-07936. The body of the complaint states that, on August 14, 2004, at 12:00 p.m., Mr. Anderson did  
knowingly commit the crime of obstructing the report of a crime or injury by removing the phone away from Patricia Murphy while she attempted to call the police during a domestic disturbance, the aforesaid offence [sic] constituting a Misdemeanor.
4. On that charge, Mr. Anderson received the following sentence:
  - \$1,200.00 fine, all suspended on condition of good behavior for one year;
  - Successful completion of domestic violence counseling.
5. On January 19, 2006, at approximately 10:43 a.m., Mr. Anderson was arrested and charged with one count of Driving While Intoxicated. Mr. Anderson was released on \$1,200.00 personal recognizance bail.
6. On February 10, 2006, at approximately 3:00 a.m., Mr. Anderson was arrested and charged with five misdemeanors: Obstructing Report of Crime or Injury, Simple Assault, Endangering the Welfare of a Child, Aggravated Driving while Intoxicated, and Driving while Intoxicated.
7. On February 10, 2006, at 3:00 a.m., Mr. Anderson was released on those charges on \$500.00 personal recognizance bail on condition that, inter alia, he have no contact with Ms. Murphy for 96 hours by mail, telephone or otherwise, and that he not go within 100 yards of Ms. Murphy.
8. On February 10, 2006, Mr. Anderson attempted to make telephone contact with Ms. Murphy at 4:29 a.m., 4:30 a.m., 4:31 a.m., 4:35 a.m., 4:47 a.m., 4:59 a.m., and 5:00 a.m. Thereafter, Mr. Anderson took a taxicab to the home where he and Ms. Murphy resided.
9. Later that day on February 10, 2006, Mr. Anderson was arrested on a charge of Default or Breach of Bail Conditions for having had contact with Ms. Murphy in violation of his bail order that same date.
10. On April 11, 2006, Mr. Anderson was convicted in Concord District Court of the following four misdemeanor charges:

Driving while Intoxicated

Alleging that, on January 19, 2006, at 10:43 p.m., Mr. Anderson did

drive a gold colored four door Chevrolet Cavalier bearing New Hampshire Registration number 1978807 upon Main Street in the Town of Pittsfield, a way in the State of New Hampshire, while under the influence of intoxicating liquor.

Obstructing Report of Crime or Injury

Alleging that on February 9, 2006, at 9:35 p.m., Mr. Anderson did

commit the crime of attempted obstructing report of a crime or injury in that he purposely used physical force, by pinning Patricia Murphy against a rail on an outside deck at the residence, and attempted to take the phone from her hand while Patricia was attempting to call the police to report the crime of endangering the welfare of a minor pursuant [sic]

Driving while Intoxicated

Alleging that, on February 9, 2006, at 1:30 a.m., Mr. Anderson did

drive a 1997 Chevy Cavalier being N.H. registration 197880 upon a public way, to-wit, Martel Rd. in the said town of Chichester, N.H. while the said Michael Anderson was under the influence of an intoxicating liquor

Default or Breach of Bail Conditions

Alleging that, on February 10, 2006, at 8:40 a.m., Mr. Anderson,

having been released on \$500 personal recognizance bail conditions by Kimberly Frederickson on 2/10/2006 on the conditions that he not commit a State or Local crime and be of good behavior and to have no contact with Patricia Murphy for 96 hours, the said Michael Anderson knowingly returned to 28 Martel Rd. and had contact with Patricia Murphy violating the conditions of his bail.

11. Pursuant to the terms of a negotiated plea agreement, the State dropped the Simple Assault, Aggravated Driving while Intoxicated, and Endangering the Welfare of a Child charges.
12. Mr. Anderson's sentence on the April 11, 2006, convictions included the following terms:

- 6 months in the House of Corrections, all 6 months suspended for 2 years on Mr. Anderson's good behavior and compliance with the terms of his sentencing order; and
- 1 year of probation

13. On April 25, 2006, the New Hampshire Supreme Court ordered Mr. Anderson to show cause why he should not be suspended pending disposition of a disciplinary proceeding. The Court also directed the Attorney Discipline Office (hereinafter referred to as "ADO") to commence disciplinary proceedings against Mr. Anderson, and to advise the Court whether it believed that Mr. Anderson should be suspended pending final disposition of the disciplinary hearing. The ADO requested that Mr. Anderson be suspended, but recommended that the suspension be stayed if Mr. Anderson met certain conditions. In his response, Mr. Anderson stated that he was receiving treatment for alcoholism, that he was on probation for one year, and that he was being randomly tested for alcohol and drugs. He requested that, in the exercise of its discretion, the Court decline to suspend him pending final disposition of the disciplinary proceedings.
14. On June 20, 2006, the Court suspended Mr. Anderson from the practice of law on an interim basis pending final disposition of disciplinary proceedings, but stayed the suspension on the condition that Mr. Anderson meaningfully participate in alcohol and/or drug counseling with a certified alcohol and drug abuse counselor, comply with such counselor's recommended treatment plan, submit evidence to the ADO on a regular basis showing his compliance with these conditions and comply with any request made by the ADO for additional evidence of his compliance.
15. In its June 20 Order, the Court also expressly held that Mr. Anderson's convictions for Default or Breach of Bail Conditions and Obstructing Report of Crime or Injury constitute "serious crimes" under Rule 37(9)(b).
16. On that same date, Mr. Anderson's probation officer, James J. Sullivan, filed a Violation of Probation alleging that Mr. Anderson had violated certain rules of his probation as follows:  
  
**Rule #10, 12G:** Failure to abstain from the use of alcohol. On June 15, 2006, the defendant blew .187 on a PBT test which represents over twice the legal limit for intoxication. He later admitted drinking.

**Rule #12C:** Failure to obtain a batterer's evaluation. Defendant has failed to obtain an evaluation or appointment for an evaluation despite being required to do so.

17. Mr. Sullivan's Supporting Summary for Violation of Probation Report states:

The defendant is an acknowledged alcoholic and the offense is alcohol related. As such, he was required to refrain totally from the use of alcohol . . . . He did so when signing the rules of probation.

On June 15, 2006, police were called to his residence because the defendant was drinking. Alcohol was involved in the offense/incident that caused him to be placed on probation. He was peaceful and cooperative with police, submitting to a PBT test that registered a .187. This is over two times the legal limit for intoxication. One of the responding officers noted he initially lied about drinking. In a telephone conversation on June 16 and in a personal interview on June 19, the defendant readily admitted drinking. Prior to that he had four months sobriety.

**Rule #12C:** Due to the nature of the offense, the defendant was required to obtain a batterer's evaluation and follow any recommended treatment. He has yet to obtain an appointment.

18. While there has been no finding of "true" on the probation violation, Mr. Anderson has conceded to his probation officer, Mr. Sullivan, that the charges are true. Mr. Anderson's hearing on the probation violation is currently scheduled for September 14, 2006.
19. Upon learning of the alleged probation violation, and by Order dated July 7, 2006, the New Hampshire Supreme Court lifted the stay of Mr. Anderson's suspension, resulting in the immediate suspension of Mr. Anderson's law license pending final disposition of this disciplinary proceeding.

## **II. RULINGS OF LAW:**

The Committee found the following violations of the Rules of Professional Conduct by clear and convincing evidence, and supported by a stipulation:

### **Rule 8.4(b): Serious Crime**

20. As described in more detail above, Mr. Anderson has been convicted of two counts of Obstructing Report of Crime or Injury and one count of Default or Breach of Bail Conditions.

21. By Order dated June 20, 2006, the Supreme Court held that “[t]he offenses of default or breach of bail conditions and obstructing the report of a crime or injury constitute ‘serious crimes’ under Rule 37(9)(b). . . .”
22. Rule 37(9)(b) provides:

The term “serious crime” shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a “serious crime.”
23. Mr. Anderson’s convictions for Obstructing Report of Crime or Injury and Default or Breach of Bail Conditions involve a failure to abide by court orders and interference with the administration of justice, and thereby reflect adversely on Mr. Anderson’s trustworthiness and fitness as a lawyer. See Rule 37(9)(b).
24. Mr. Anderson’s other violations of the law and court orders as set forth herein also reflect his indifference to the law.
25. Mr. Anderson’s conduct in this regard constitutes clear and convincing evidence a violation of N.H. R. Prof. Conduct 8.4(b).

**Rule 8.4(a): Misconduct**

26. Because of the Rule 8.4(b) violation, there is necessarily clear and convincing evidence of a violation of N.H. R. Prof. Conduct 8.4(a).

**III. STIPULATION AS TO COSTS:**

Mr. Anderson agrees to pay the expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter.

**IV. STIPULATION AS TO SANCTION:**

The Committee orders that Mr. Anderson be suspended from the practice of law for six months.

27. Prior to Mr. Anderson’s reinstatement to the practice of law, Mr. Anderson agrees that he must provide Disciplinary Counsel with satisfactory proof that, during the period of his suspension, (a) he has complied with the terms of his probation in the matter of State v.

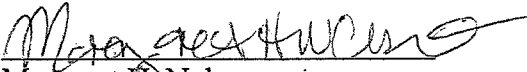
Michael Anderson, (docket numbers 06-CR-1005-661C and 663C), (b) he has had no further personal interactions with the criminal justice system, and (c) he has successfully participated in treatment for alcoholism. In the event that Mr. Anderson is unable to show compliance with the provisions (a), (b), and (c) above by clear and convincing evidence, Mr. Anderson agrees that Disciplinary Counsel may bring the matter to the attention of the Professional Conduct Committee for further orders and conditions which must be met by Mr. Anderson prior to Mr. Anderson's reinstatement to the practice of law.

28. Mr. Anderson further agrees that, in the event Disciplinary Counsel learns that, during the term of his suspension, Mr. Anderson has violated a term of probation, has had further personal interaction with the criminal justice system, or has engaged in misconduct attributable to alcohol abuse, Disciplinary Counsel has the authority to bring this matter to the immediate attention of the Professional Conduct Committee for the imposition of further conditions precedent to Mr. Anderson's reinstatement.
29. While Mr. Anderson has no prior disciplinary history, he concedes that his misconduct is serious and justifies a significant sanction. In addition, Mr. Anderson suffers from alcoholism and desires a continued suspension in order to focus on his rehabilitation before resuming the practice of law.

#### **V. CONCLUSION:**

For all of the above reasons, The Professional Conduct Committee suspends Michael E. Anderson from the practice of law for a period of six months for the violations of the Rules of Professional Conduct cited above. This order shall take effect as of the 16<sup>th</sup> day of March, 2007. At the conclusion of his suspension, Mr. Anderson shall comply with all Rules of the Supreme Court as to application for reinstatement to the practice of law.

March 15, 2007

  
Margaret H. Nelson  
Chair

Distribution:

Landya B. McCafferty, Disciplinary Counsel  
Eugene Sullivan, III, Esquire  
File

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**In Case No. LD-2006-0003, In the Matter of Michael E. Anderson, the court on February 10, 2009, issued the following order:**

Michael E. Anderson's motion for reinstatement to the New Hampshire bar is granted.

Broderick, C.J., and Dalianis, Duggan and Hicks, JJ., concurred.

**Eileen Fox,  
Clerk**

Distribution:

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