

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

a committee of the attorney discipline system

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In the Matter of :Michael M. Harrington, Esquire– LD-2022-0003

PUBLIC CENSURE

In accordance with Supreme Court Rule 37(12), on September 20, 2022, the New Hampshire Supreme Court ruled on the above captioned reciprocal discipline matter from the Board of Bar Overseers (“BBO”) of the Massachusetts Supreme Judicial Court after giving the parties an opportunity to be heard on the matter. The Court remanded the matter to the Professional Conduct Committee (“Committee”) for the issuance of a public censure.

In July 2019, Attorney Harrington was retained to assist a client in advancing his client’s wife and daughter’s 1-130 petitions and drafting a writ of mandamus in order to compel immigration authorities to act on an outstanding visa petition. The client told Attorney Harrington that time was of the essence.

Attorney Harrington requested a \$500 retainer, against which he would bill at \$250 an hour, but failed to prepare or transmit to the client a writing detailing the scope of the representation or rate of his fee and expenses.

In August 2019, Attorney Harrington sent two emails to the U.S. Embassy and attached a notice of appearance. The first email was undeliverable as it was sent to the wrong address, but the second email was delivered. At the end of August, the client contacted Attorney Harrington to find out the status of the writ and Attorney Harrington informed him that he was “almost there.”

On September 5, 2019, the client paid Attorney Harrington \$200 for the filing fee for the writ. Also in September 2019, Attorney Harrington sent the client a draft of the writ of mandamus that was incomplete in that it did not include the name of the client's wife and daughter, the date the client became a U.S. citizen, or the date the I-130 was filed. Thereafter, Attorney Harrington failed to perform any additional work on behalf of his client and never finished or filed the writ of mandamus.

During the middle of September, the client attempted repeatedly to contact Attorney Harrington by telephone and text messages. On September 14, 2019, Attorney Harrington reprimanded the client for calling too often and told him to find another attorney. Attorney Harrington also told the client, "You will get the Complaint when I send it to you." The client reminded Attorney Harrington that he had already paid the filing fee, but Attorney Harrington thereafter failed to pay or return the fee.

By 2020 the client procured visas for his wife and child without Attorney Harrington's assistance. Attorney Harrington ultimately refunded all fees and costs to the client in May 2020 and the client was not harmed.

Attorney Harrington's conduct violated Massachusetts Rules of Professional Conduct 1.1 (competence), 1.1(a) (seek client's lawful objectives through reasonable means), 1.3 (act with reasonable diligence and promptness), 1.4(a) and (b) (keep client reasonably informed and comply with requests for information/explain a matter to the extent reasonably necessary for client to make informed decisions), 1.5(b) (scope of representation and basis for fee to be in writing) and 1.16(d) (refund any payment of fees and expenses that has not been earned). New Hampshire has not adopted a Rule of Professional Conduct equivalent to Massachusetts Rule 1.5(b)(1).

It appears from the order of the BBO that Attorney Harrington participated fully in the BBO proceeding by stipulating to a public reprimand and thereby waiving a hearing.

After reviewing the BBO's order of public reprimand, and providing Attorney Harrington the opportunity to comment, the Court concluded that, consistent with Rule 37(12)(d), a public censure, which is substantially similar discipline to the public reprimand issues in Massachusetts, is warranted.

Accordingly, the Committee issues a Public Censure to Michael M. Harrington, Esquire, as reciprocal discipline based on the Commonwealth of Massachusetts Board of Bar Overseers' order dated April 13, 2022.

January 13, 2023

/s/ Stephanie C. Hausman
Stephanie C. Hausman
Chair

cc: Mark P. Cornell, Deputy General Counsel
Michael M. Harrington, Esquire