

New Hampshire Supreme Court  
**Professional Conduct Committee**  
*a committee of the attorney discipline system*

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

Stephanie C. Hausman, Esq., Chair  
Caroline K. Leonard, Esq., Vice Chair  
Katheen M. Ames, Vice Chair  
Barbara J. Guay, Administrative Assistant

*Sheridan, William C. advs. Attorney Discipline Office - #21-017*

**Order**

On May 6, 2023, the Professional Conduct Committee deliberated the Respondent's Request to Resign and Affidavit in Support Thereof Pursuant to Supreme Court Rule 37(11); Respondent's Agreement to Pay Costs, and the Hearings Committee Recommendation on Sanction. The Committee voted to approve Attorney Sheridan's request to resign under Supreme Court Rule 37(11) as well as his Agreement to Pay Costs and will file its recommendation to approve his resignation with the Supreme Court by this Order.

May 18, 2023

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

cc: Elizabeth M. Murphy, Assistant Disciplinary Counsel  
William C. Sheridan

**NEW HAMPSHIRE SUPREME COURT**  
**HEARINGS COMMITTEE**

Sheridan, William C.  
advs.  
Attorney Discipline Office  
#21-017

**Hearings Committee Recommendation on Sanction**

On April 24, 2023, the Hearings Committee Panel deliberated on the Affidavit of William C. Sheridan containing his request to resign and the Agreement to Pay Costs submitted by Mr. Sheridan. The Panel recommends approval on Mr. Sheridan's request to resign and submits the recommendation to the Professional Conduct Committee by this Order.

In accordance with New Hampshire Supreme Court Rule 37(A)(III)(d)(1), the Hearing Panel recommends that the New Hampshire Supreme Court Professional Conduct Committee accept William C. Sheridan's request to resign for the violations outlined in the Hearing Committee's Finding of Fact and Rulings of Law (Hearing Report) issued on January 6, 2023. The Panel relies on the analysis and findings of fact contained in the Hearing Report and incorporates them herein.

The Panel also recommends that Mr. Sheridan be ordered to reimburse the Professional Conduct Committee for all costs associated with the

investigation and prosecution of this matter. Mr. Sheridan has noted his agreement to this request.

This sanction is in accord with the purpose of attorney discipline as described by the New Hampshire Supreme Court and with the *Standards*. See, e.g., *Shillen's Case*, 149 N.H. 132, 139 (2003) (noting that although the Court has never formally adopted these *Standards*, the Court has considered them when imposing sanctions).

Respectfully submitted,

Dated: April 28, 2023

/s/ Brooke Belanger  
Brooke Belanger,  
Hearing Panel Chair

Amy Manchester, Hon.  
Elaine Holden  
Mark Knights, Esq.

Distribution:

Elizabeth M. Murphy, Assistant Disciplinary Counsel  
William C. Sheridan  
File

**NEW HAMPSHIRE SUPREME COURT**  
**HEARINGS COMMITTEE**

Sheridan, William C.

advs.

Attorney Discipline Office

#21-017

**REQUEST TO RESIGN AND AFFIDAVIT IN SUPPORT**  
**THEREOF PURSUANT TO RULE 37(11)**

NOW COMES, William C. Sheridan, Esquire, and respectfully requests leave to resign from the New Hampshire Bar pursuant to New Hampshire Supreme Court Rule 37(11). In support thereof, Mr. Sheridan, being duly sworn, does hereby depose and state as follows:

1. I was admitted to the New Hampshire Bar in 1987.
2. I am currently suspended from the practice of law in New Hampshire.  
*Sheridan, William C. advs. ADO, #19-003 (October 11, 2022); In the Matter of William C. Sheridan – LD-2022-0005 (November 17, 2022).*
3. I do not intend to resume practicing law in New Hampshire.
4. I was also admitted to practice law in Arizona on October 23, 1982; and was admitted to practice law in Massachusetts on December 27, 1983. I am suspended administratively with the Arizona Bar for failure to pay dues; and am suspended from the Massachusetts Bar on a reciprocal basis.

5. I have a prior public disciplinary history.
6. I operated my law office as Sheridan Law Offices, located at 50 Nashua Road, Suite 102, Londonderry, New Hampshire.
7. My resignation from the Bar is tendered freely and voluntarily. I am not under any duress, subject to any coercion, or medically impaired, and I am fully aware of and accept the implications of submitting this request and resigning from the Bar.
8. The ADO docketed a complaint against me on July 28, 2021 after receiving a grievance from Mr. Jay Alper dated July 4, 2021 (*Sheridan, William C. advs. Attorney Discipline Office, #21-017*) ("Alper matter).
9. A Notice of Charges was issued on March 31, 2022.
10. An evidentiary hearing was held in the Alper matter on November 7, 2022 and November 9, 2022.
11. On January 6, 2023, the Hearing Panel issued its report. The Panel found clear and convincing evidence of the following Rule violations:
  - (a) Rule 1.1 (Competence)
  - (b) Rule 1.3 (Diligence)
  - (c) Rule 1.4 (Communication)
  - (d) Rule 1.5 (Fees)
  - (e) Rule 8.1 (Bar Admission and Disciplinary Matters)
  - (f) Rule 8.4(c) (Deceit)
12. The Hearing Panel's Report is attached hereto as Exhibit A.
13. The Hearing Panel issued a further Order on Motion to Reconsider on


January 31, 2023. The Order is attached hereto as Exhibit B.

14. My misconduct is specifically set forth in the Hearing Panel's Report and Order.
15. I do not contest the Hearing Panel's orders and understand a sanction for the above Rule violations is appropriate. A sanction hearing is scheduled for April 24, 2023.
16. I waive the confidentiality of this Request to Resign and Affidavit, as well as the attached Exhibits.
17. The ADO does not object to my resignation.
18. In the unlikely event that I apply for readmission to the Bar, I understand that the ADO may object to my application and, in its discretion, may bring forward and prosecute this underlying disciplinary matter to a sanction. I waive my defenses and my right to assert that such prosecution would be barred by the statute of limitations. I understand that I will be bound by my representations and admissions as contained in my Request to Resign and Affidavit and related attachments. I also understand that in the event I apply for readmission, this matter may be presented to the Committee on Character and Fitness.
19. I agree to pay the costs incurred by the ADO in the investigation and pursuit of this disciplinary matter. My agreement to pay costs is the subject of a separate agreement.
20. I request that the Hearings Committee recommend to the Professional

Conduct Committee this resignation be accepted.

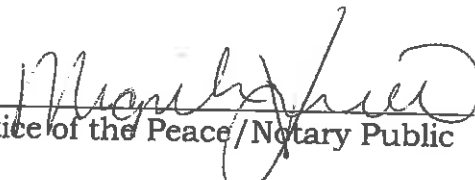
Respectfully Submitted,

Dated: 4/13/23

  
William C. Sheridan, Esquire  
84 Poor Street  
Andover, MA 01810  
(603) 674-9359

STATE OF MA  
COUNTY OF ESSEX

On this 13<sup>th</sup> day of April, 2023, personally appeared the above named William C. Sheridan and made solemn oath that the facts above are true to the best of his knowledge and belief.

  
Justice of the Peace / Notary Public

My Commission Expires:



MIGUEL M. A. VALENZUELA  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires Oct. 18, 2024

**NEW HAMPSHIRE SUPREME COURT**

**HEARINGS COMMITTEE**

Sheridan, William C.

advs.

Attorney Discipline Office

#21-017

**Hearings Committee's Findings of Fact and  
Rulings of Law**

1. The Hearing Panel finds clear and convincing evidence of the following facts and rule violations.

**I. Findings of Fact**

**Mr. Sheridan's Prior Disciplinary History**

2. Mr. Sheridan has a prior disciplinary history in New Hampshire as follows: (a) a six-month suspension [Sheridan, William C. advs. Professional Conduct Committee, #02-070 & #02-073 (March 10, 2006)] for violations N.H. Rules of Professional Conduct ("Rules") 5.5(a) and 8.4(a)[Ex.<sup>1</sup> 134.]; (b) a one-year suspension [Sheridan's Case, 148 N.H. 595 (December 6, 2002)] for violations of Rules 1.1(a); 1.1(b)(5), 1.1(c)(4), 1.3(a), 1.4(a), 1.16(d) and 8.4(a)[Ex. 133.]; (c) a public censure

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<sup>1</sup> "Ex." signifies the previously filed "ADO Exhibits," three notebooks containing 140 pre-marked exhibits stipulated to by the parties (*see* Case Management Order ¶ 14 and Rule 37A(III)(b)(6)(B)(vii) (providing that, absent timely objections, proposed exhibits are deemed stipulated exhibits)). Page numbers reference the Bates numbers on the bottom right-hand corner of the page.

[Sheridan's Case, 146 N.H. 736 (2001) for violations of Rules 1.1(a), 1.1(b)(1), 1.1(b)(5), 1.1(c)(4), 1.3(a) and 8.4(a)] [Ex. 132.]; and (d) a public censure [In the Matter of William C. Sheridan, Case Nos. LD-97-006 & LD-97-010 (November 19, 1998) for violations of Rules 1.1(a), 1.1(b)(5), 1.1(c)(4), 1.3(a), 1.15(a)(1) and Supreme Court Rule 50(2)(B) and 8.4(a)] [Ex. 131.].

3. Mr. Sheridan also has a disciplinary history in Massachusetts on a reciprocal basis. [See In the Matter of William C. Sheridan, 18 Mass. Att'y Disc. R. 461 (2002); In the Matter of William C. Sheridan, 22 Mass. Att'y Disc. R. 691 (2006); In the Matter of William C. Sheridan, 23 Mass. Att'y Disc. R. 646 (2007), 449 Mass. 1005 (2007)].
4. On October 11, 2022, the Professional Conduct Committee issued a Six-Month Suspension with the Requirement of a Finding of Medical Fitness to Practice Law Before Reinstatement and Order on Costs in Sheridan, William C. advs. ADO, #19-003. [Ex. 135.]
5. On October 13, 2022, Referee Larry M. Smukler issued his recommendation for an interim suspension. (In the Matter of William C. Sheridan – LD-2022-0005). [Ex. 136.]

### **Summary of Facts**

#### **ADO Investigation**

6. This matter arises out of a grievance filed by Jay Alper ("Mr. Alper") against Mr. Sheridan on July 4, 2021. [Ex. 1.]

7. Mr. Alper and his wife, Colleen Alper (collectively “the Alpers”), hired Mr. Sheridan in July 2019 to handle an ongoing civil matter for them that was pending in Rockingham Superior Court (“the Court”) entitled Jay S. Alper, et al v. Ocwen Loan Servicing, LLC, Docket No. 218-2013-CV-00374 (“the Action”). [Ex. 1; Ex. 24.]
8. On February 26, 2021, the defendant in the Action, Ocwen Loan Servicing (“Ocwen”) obtained a final default judgment against the Alpers. Mr. Alper’s complaint set forth issues relating to competence, diligence, and communication. [Ex. 1, p. 2; Ex. 24; Ex. 41.]
9. The matter was docketed as a complaint on July 28, 2021. [Ex. 2.]
10. On July 28, 2021, the Attorney Discipline Office (“ADO”) wrote to Mr. Sheridan to inform him that the matter had been docketed. The letter indicated that Mr. Sheridan was required to submit a reply to the complaint by August 11, 2021. The letter stated in relevant part:

YOU ARE REQUIRED TO PROMPTLY RESPOND TO THE  
REQUESTS OF THIS OFFICE. THE FAILURE TO  
COOPERATE WITH A DISCIPLINARY AGENCY COULD  
RESULT IN THE SCHEDULING OF A PUBLIC HEARING AND  
IN A FINDING THAT THE RULES OF PROFESSIONAL  
CONDUCT HAVE BEEN VIOLATED. RULE 8.1(b). [Ex. 2, p.  
8.]
11. Mr. Sheridan did not submit a mandatory response to the complaint.<sup>2</sup>
12. On September 17, 2021, the Complaint Screening Committee referred the matter to Disciplinary Counsel. [Ex. 3.]

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<sup>2</sup> The findings contained within paragraphs 11-23 are supported not only by the exhibits referenced herein, but are further supported by pages 183-188 in the transcript from Day 2 of the Hearing on the Merits (November 9, 2022).

13. On October 28, 2021, the ADO wrote to Mr. Sheridan and requested that Mr. Sheridan provide a complete copy of his file with respect to the Alper matter. The letter was sent by mail and email. [Ex. 5.]
14. Mr. Sheridan responded by email to ADO Legal Assistant Kathy Cleveland:

I will try to get that to you as soon as I can.

Please email me communications since I am rarely at my Londonderry, NH office.

If something needs to be mailed, please mail to my home at 84 Poor St, Andover, MA 01810. [Ex. 6.]
15. The letter was forwarded to Mr. Sheridan's home address as requested.
16. Mr. Sheridan did not provide a copy of his file to the ADO.
17. On February 4, 2022, the ADO wrote to Mr. Sheridan and again requested that Mr. Sheridan provide a complete copy of his file with respect to the Alper matter. In the same letter, it was also requested that Mr. Sheridan file a mandatory response to the grievance by February 14, 2022. [Ex. 8.]
18. The letter was emailed to Mr. Sheridan at his email address, [wsheridan21@hotmail.com](mailto:wsheridan21@hotmail.com). [Ex. 8.]
19. Mr. Sheridan did not provide a copy of the file to the ADO and did not file a response to the grievance.
20. On March 24, 2022, the ADO discussed the matter with Mr. Sheridan. Mr. Sheridan indicated that it would take him a month to produce his file. He also stated that he had not received prior correspondences

requesting that he provide a mandatory response to the docketing letter.  
[Ex. 9.]

21. After the conversation, on March 24, 2022, the ADO wrote to Mr. Sheridan and requested that mandatory response be filed by March 28, 2022. The previous letters were attached. The letter was sent by email and U.S. Mail to Mr. Sheridan's home address. [Ex. 9.]
22. Mr. Sheridan acknowledged receipt of the letter by email.
23. Mr. Sheridan first produced his Alper file to the ADO on October 18, 2022, nearly *a year* after the production of the file was first requested.

#### **Underlying Matter**

24. In April 2013, the Alpers filed for an injunction against Ocwen in Rockingham Superior Court. The matter was settled in October 2014. [Ex. 24, pp. 28-32.]
25. In December 2017, the Alpers filed a complaint against Ocwen as *pro se* litigants. The court treated the complaint as a motion for contempt of a court order and assigned the matter the same docket number as the 2013 matter. [Ex. 24, p. 33; Ex. 25.]
26. In July 2019, the Alpers hired Mr. Sheridan to handle the matter for them. [Ex. 56.]
27. Mr. Sheridan and Mr. Alper exchanged emails regarding a written fee agreement. [Ex. 56.]
28. However, they settled upon a verbal fee agreement and did not enter into a written fee agreement. Based on their verbal agreement, the Alpers

paid Mr. Sheridan an initial payment of \$500. Thereafter, they paid Mr. Sheridan \$500 every month for approximately 6 months. In total, between 2019 and 2021, the Alpers paid Mr. Sheridan approximately \$3,500. [Ex. 128; Ex. 129.]

29. Mr. Sheridan did not provide receipts for the payments during the course of the representation.<sup>3</sup>
30. During the course of the representation, Mr. Sheridan did not provide the Alpers with invoices for work performed on their matter. [Testimony of Mr. Alper, Day 1 Tr. P. 47, Lines 4-6].
31. On September 11, 2019, Mr. Sheridan filed his appearance in the Action as plaintiff's counsel on behalf of the Alpers. [Ex. 26.]
32. Mr. Sheridan simultaneously filed a Motion to Continue the Status Conference that had been scheduled for August 15, 2019. Mr. Sheridan sought a 45-day continuance. Counsel for Ocwen assented to the Motion. [Ex. 27.]
33. Mr. Sheridan stated in the Motion to Continue that his wife had recently died. In relevant part, he stated: "Counsel is now back working. Plaintiff approached counsel about ten (10) days ago. Counsel has yet to thoroughly review the materials of this case. Forty-Five (45) days should be sufficient to allow him to do so." [Ex. 27, p. 53.]

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<sup>3</sup> While the testimony contained within the transcripts from the hearing days does not specifically state that Mr. Sheridan failed to provide receipts for the payments during the course of the representation, strong inferences as to that fact are drawn from Mr. Alper's testimony. See, e.g. Day 1 Tr. P. 44 Lines 12-23; Pp. 45-46.

34. Mr. Sheridan also indicated in the Motion that he may amend the complaint. [Ex. 27, p. 54.]
35. The Court granted the Motion. [Ex. 27, p. 53.] The Status Conference was scheduled for November 7, 2019. [Ex. 24, p. 35.]
36. Between September 27, 2019 and October 16, 2019, Mr. Alper sent several text messages regarding Mr. Sheridan's progress with drafting the amended complaint. [Ex. 46, pp. 131-134.]
37. In his reply texts to Mr. Alper, Mr. Sheridan attributed his delay in drafting the amended complaint to an illness, pain issues and other issues. [Ex. 46, pp. 132-134.]
38. On October 18, 2019, Mr. Alper via text message asked Mr. Sheridan: "Are you going to request a continuance? If so, my concern is Ocwen will fight another continuance and who knows if the judge will grant it." [Ex. 46, p. 135.]
39. Mr. Sheridan replied: "I will and pretty sure I will get it given the circumstances." [Ex. 46, p. 135.] Mr. Alper offered to file it with the court himself. [Ex. 46, p. 136.]
40. On October 22, 2019, Mr. Sheridan and Mr. Alper exchanged text messages discussing filing the amended complaint by October 28, 2019. [Ex. 46, pp. 137-138.]
41. On November 6, 2019, Mr. Sheridan filed "Plaintiff's Ex Parte Motion to Continue The Status Conference In This Case Scheduled for This Week

for 21 Days,” and “Plaintiffs [sic] Ex Parte Motion to Allow Him to File Motion to Extend Late.” [Ex. 29, pp. 58-59; Ex. 30, pp. 60-63.]

42. The Motion to Continue stated in part, at paragraph 9, that, “Plaintiffs counsel intends to amend its complaint...” [Ex. 30, p. 62.]
43. Mr. Sheridan also filed an Affidavit in support. Mr. Sheridan stated in relevant part:

Over the past year I have suffered a series of catastrophic events that interfered with my ability to meet filing deadlines. For this reason, I continued virtually all of those deadlines until such time that I would be able to meet them.

In August 2017, I underwent successful abdominal surgery at the Elliot Hospital to correct previous surgical injury to my abdominal muscle wall caused by a botched operation at Mass General Hospital several years ago.

In light of the amount of damage caused by Mass. Gen.’s defective surgery in 2012, it took me much longer than expected to recover from the 2017 successful operation at the Elliot Hospital.

About a year later in November 2018, my home was seriously affected by the gas explosions caused by Columbia Gas throughout the Merrimack Valley. My family was evacuated, my home was found to be damaged, and several weeks of construction was carried out on my home and in my neighborhood as a result.

In February 2019 returning from a nine hour drive, I sustained a mini stroke getting out of my car in the driveway, collapsed, and was hospitalized for three days in Lawrence General Hospital until I was able to walk again without aid. Luckily, the mini stroke took place in my inner ear and had no effect on my nervous system. Nonetheless, I had to rest in bed for several weeks to recuperate.

The next month, in March 2019, my wife began to experience unusual and severe mood swings that frightened both of us. Throughout March and early April my wife I were continually seeking out medical care, even to the extent of having her

remain under observation at Massachusetts General Hospital for two days. No one could identify the issue.

In April 2019 a tumor was discovered along my wife's brainstem, a serious operation was conducted, and I had to care for my wife at home. A month later, suddenly and unexpectedly, on a four day period my wife with little notice deteriorated swiftly and died.

I am not ashamed to say that suffering through all of these events in such a short period of time, especially my wife's sudden and unexpected death, affected me. Over the past five months I have continued all of my cases so that my practice was minimal. Today, I am much better, but I still have some recovery to go through due to the damage to my abdominal muscle wall in 2012. But that is only abdominal muscle cramps.

The 21 days requested will enable me to catch up on this case and get my practice up and running. (Paragraph numbering omitted.) [Ex. 28, pp. 55-56.]

44. On November 6, 2019, Mrs. Alper filed the Motions and Affidavit with the court for Mr. Sheridan. [Ex. 46, pp. 146-148.]
45. On November 6, 2019, the court granted the continuance. [Ex. 29, p. 58.]  
The status conference was rescheduled to January 3, 2020. [Ex. 24, p. 35.]
46. On December 2, 2019, Mr. Alper sent a text to Mr. Sheridan stating, "Good Morning Bill, your silence is deafening. How are you? Are we scheduled for anything? Any progress? Anything?" [Ex. 46, p. 148.]
47. Mr. Sheridan replied, "Get back to you later today." [Ex. 46, p. 148.]
48. On December 3, 2019, Mr. Alper sent two texts, "Bill, are we scheduled for anything? Any progress? Anything?" and "You were going to get back to me yesterday." [Ex. 46, p. 148.]

49. Mr. Sheridan replied, "Jay, I apologize. I am seriously snowed in for past 2 days. Bill." [Ex. 46, p. 148.]
50. On December 4, 2019, Mr. Alper sent a follow-up text to Mr. Sheridan:
- Bill, are we scheduled for anything? Any progress? Anything? This is the 3<sup>rd</sup> time this week I have asked you these questions. You have continually not answered my questions, you have answered with diversion type answers and your communication or lack of has sucked. I made a monthly monetary commitment to you and in return I expect your commitment as well to my case. I continually hold up my end of the bargain but I get nothing. But I have no idea what your doing or not doing other than cashing my checks. I am right back to where I was with you in 2015-2016. Complete frustration due to no effort on your part. Stop me when I'm wrong. [Ex. 46, p. 151.]
51. Mr. Sheridan replied, "I will be able to give you an eta Sunday. Work is being done on my house yesterday and today." [Ex. 46, p. 151.]
52. On December 9, 2019, Mr. Sheridan sent a text message to Mr. Alper stating: "Jay, I am not ready yet. Will focus on case today. Bill." [Ex. 46, p. 151.]
53. A meeting for Monday, December 16, 2019 did not go forward as planned. [Ex. 46, p. 152.]
54. On December 16, 22, 28 and 29, Mr. Alper sent text messages to Mr. Sheridan inquiring as to the status of the draft of the amended complaint. [Ex. 46, pp. 152-158.]
55. Mr. Sheridan's text replies attributed the delays to the hospitalization of his mother-in-law, other health issues she was experiencing and his own illness. [Ex. 46, pp. 152-158.]

56. On December 16, 2019, Mr. Sheridan stated, "I will get you a draft of amended complaint by Sunday. It will weave statute of limitations case into your existing claims." [Ex. 46, p. 153.]
57. Despite Mr. Sheridan's continued assurances in his text message, he did not provide Mr. Alper with a draft of the amended complaint.<sup>4</sup>
58. On January 2, 2020, one day prior to the Status Conference, Mr. Sheridan sent a text to Mr. Alper stating, "Jay, I will have to bring pleadings with me to status conference tomorrow morning, I apologize. I am in pain and I have to take a break. Bill." [Ex. 47, p. 161.]
59. On the day of the Status Conference, Mr. Alper sent a text to Mr. Sheridan, "I still want to file an amended complaint even if she dismisses it like you said I want to leave open opportunity for appeal I also want to find a way to reassert the fair credit reporting act." [Ex. 47, p. 161.]
60. Despite Mr. Alper's request, Mr. Sheridan did not file an amended complaint at the Status Conference.
61. The Status Conference went forward on January 3, 2020. [Ex. 32.]
62. On that same day, the Court entered a Case Structuring and ADR Order. [Ex. 32.]

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<sup>4</sup> The Panel finds that throughout the hearing on the merits, there was testimony supporting the fact that Mr. Sheridan did not prepare an amended complaint. For example, in addition to the exhibits referenced herein, in support of its findings, the panel relies, *inter alia*, on testimony from the second day of the Hearing on the Merits, specifically page 232, lines 12-15, when Mr. Sheridan stated, "I did explain to him what the amended complaint terms would be. It's just that I never drafted it."

63. The Case Structuring Order provided deadlines for the parties to propounded Interrogatories by April 1, 2020, complete depositions by May 15, 2020 and completion of discovery by June 1, 2020. [Ex. 32, p. 68.]
64. On January 10, 2020, the court sent a Notice of Jury Trial scheduling the matter for a trial management conference on October 14, 2020 and Jury Selection on October 26, 2020. [Ex. 33.]
65. Between January 19, 2020 and March 31, 2020, Mr. Alper sent Mr. Sheridan several text messages requesting a status on the draft of the amended complaint. [Ex. 47, pp. 189-207.]
66. Mr. Sheridan's replies to Mr. Alper attributed the delays to multiple medical issues suffered by him including, a vertebrae between his shoulder blades caused a pinched nerve and allergies to grass. [Ex. 47, pp. 189-207.]
67. On March 31, 2020, Ocwen's counsel emailed to Mr. Sheridan Interrogatories and Request for Production of Documents to be Answered by the Alpers. [Ex. 89, p. 450.]
68. On April 1, 2020, Mr. Sheridan sent an email to Mr. Alper stating, in relevant part, "Jay here is a short outline of case so that you know I have put a lot of thought into this case." [Ex. 84, p. 433.] A half-page outline was attached. [Ex. 84, p. 434.]
69. On April 3, 2020, Mr. Sheridan requested a 45-day extension from Defendant's counsel to provide answers to discovery. Attached for

Defendant's counsel approval to the email was a Motion to Extend Scheduling Order. [Ex. 88, pp. 442-444.]

70. Although Ocwen's counsel assented to the Motion to Extend, Mr. Sheridan did not file the Motion with the court. [Ex. 24, p. 35.]
71. Thereafter, Mr. Sheridan requested, and Ocwen's counsel granted, five (5) more extensions on May 14, 2020, May 29, 2020, June 12, 2020, July 17, 2020 and July 29, 2020 for Plaintiff to respond to discovery. [Ex. 94, pp. 464-469; Ex. 137, pp. 3394-3396.] The last deadline to respond to discovery was August 19, 2020.
72. In Mr. Sheridan's email requests for extensions to Ocwen's counsel, he attributed his need for continuances to medical issues he or his mother-in-law were experiencing. [Ex. 94, pp. 464-469.]
73. Until July 29, 2020, Mr. Sheridan did not ask Mr. Alper to work on the responses to the interrogatories. [Day 2 Tr. Pp. 272-273, Lines 18-23, 1-16]
74. On July 29, 2020, Mr. Sheridan sent a text to Mr. Alper stating: "I need to know how long you would need to answer discovery before I can set final dates for the scheduling order. Let me get that done first. I did get an extension like I said." [Ex. 47, p. 240.]
75. Despite Mr. Sheridan and Ocwen's counsel email discussions on May 14, 2020 and July 17, 2020 regarding filing a joint motion to extend the deadline set in the structuring conference Order, a motion was not filed with the court. [Ex. 24, p. 35.]

76. On October 9, 2020, Defendant's counsel filed "Defendant Ocwen Loan Servicing, LLC's Motion for Conditional Default." [Ex. 34.]
77. In relevant part, the Motion stated that it was:
- due to Plaintiff's failure to respond to Ocwen's First Set of Interrogatories, served on Plaintiff's on March 31, 2020. Since service, Plaintiffs have obtained six extensions to respond (April 3, May 14, May 29, June 12, July 17 and July 29), the last extension to respond ended on August 19, 2020. Despite all of these extensions, Plaintiffs have still not responded to any discovery. Defense counsel has attempted without success to resolve this matter without having to file a motion. [Ex. 34, p. 72.]
78. On October 13, 2020, the Court entered a Notice of Conditional Default. [Ex. 35, p. 75.]
79. The Notice advised:
- A conditional default has been entered against you for failure to answer Interrogatories. Unless the Interrogatories are answered and a Motion to Strike is filed within ten days from the receipt of this notice, the conditional default may become final and upon Motion, a default judgment may be entered and damages assessed in connection therewith. [Ex. 35, p. 75.]
80. The Motion to Strike was due on October 23, 2020. [Ex. 35.]
81. Mr. Sheridan did not inform the Alpers of the conditional default. [Ex. 47, pp. 260-262.]
82. Subsequently, the Court canceled the Trial Management Conference for October 14, 2020 and Jury Selection for October 26, 2020. [Ex. 24, p. 35.]
83. Prior to the entry of Conditional Default, Mr. Alper, over the next five months from May 13, 2020 to October 12, 2020, sent Mr. Sheridan

approximately thirty-three (33) text messages requesting a status on the draft of the amended complaint. [Ex. 47, pp. 208-260.]

84. In Mr. Sheridan's replies to Mr. Alper, he attributed the delays to a variety of medical issues suffered by him including but not limited to the flu, a slipped disc, exhaustion and also medical issues or emergencies suffered by his mother-in-law. [Ex. 47, pp. 208-260.]
85. On October 12, 2020, one day prior to the entry of default by the Court, Mr. Alper sent a text and an email to Mr. Sheridan which stated:
- "Bill, I am checking to see if you represent Colleen & I in our case. I don't know anything. I don't know if you filed an amended complaint like I have been begging you to do for 1 ½ years. I don't know if you made any arrangements for a new scheduling order. I don't know if there is still a trial management conference scheduled for this Wednesday at 1:00 pm. I don't know if there is a jury selection on October 26, 2020. Clearly, I don't know anything. Yet you have been filing documents on behalf of your other client(s). In bankruptcy court and other. So all I ask is to communicate with me your real & honest intentions." [Ex. 47, p. 260; Ex. 101, p. 490.]
86. Mr. Sheridan replied two days later via email on October 14, 2020, "Jay, my friend who was helping me was in NY the past 2 weeks. Her aun[t] was on chemo for cancer. Talk later. Bill" [Ex. 47, p. 260; Ex. 101, p. 490.]
87. On October 17, 2020, Mr. Alper sent a text to Mr. Sheridan, "Bill, I'd like to get together to discuss my case tomorrow are you available at noon time?" Mr. Sheridan responded by email suggesting to "do it on Monday." [Ex. 101, pp. 489-490.] Mr. Sheridan did not respond to the text until October 19, 2020. [Ex. 47, p. 260.]

88. On October 19, 2020, Mr. Sheridan and Mr. Alper exchanged emails about meeting, and set a time for a Zoom meeting at 2:00 pm that day. [Ex. 47, pp. 260-261; Ex. 101, pp. 489-490.] NOTE: TEXTS ON 260-261
89. At 12:46 p.m. that afternoon, Mr. Sheridan sent a text regarding the “2pm ok. How do we set up the meeting. I’ll have Zoom open. Go into my room. On desk (very messy) are ints you have to answer. Make a copy of them.” [Ex. 47, p. 261.] HE SAID “I DON’T RECALL” (IF I KNEW HOW TO DO ZOOM OR IF I DID ZOOM)
90. Mr. Alper replied at 12:47 pm, “What are ints? I will send user id & password to your email.” [Ex. 47, p. 261.]
91. Mr. Sheridan replied at 12:54 p.m., “interrogatories.” [Ex. 47, p. 261.]
92. Mr. Sheridan failed to attend the Zoom meeting at 2:00 p.m. [Ex. 47, p. 262.]
93. Mr. Sheridan’s text at 12:46 pm is also only the second time that Mr. Sheridan referenced the outstanding discovery to his clients since his earlier email to Mr. Alper of July 29, 2020. [Ex. 47, p. 261; Ex. 94, p. 464.]
94. Mr. Sheridan did not timely cure the conditional default or file a motion to strike by the deadline of October 23, 2020. [Ex. 24, p. 35.]
95. Mr. Sheridan sent an email to opposing counsel regarding the conditional default. [Ex. 113, pp. 516-517.]
96. On October 28, 2020, Mr. Sheridan sent an email to Ocwen’s counsel, William B. Breen, Jr. (“Mr. Breen”) stating, in relevant part:

Would you assent to extend the time that I must tender answers 20 days from today before conditional default converts to an unconditional one? I would file motion and overnight it to the court. I am getting better. [Ex. 113, pp. 516-517.]

97. Mr. Sheridan emailed Mr. Breen again stating: "Please confirm." [Ex. 113, p. 516.]
98. Mr. Breen responded on October 28, 2020, in relevant part, "I can agree that we will take no position on your intended motion to enlarge time. As the deadline for responding is Court imposed, we cannot simply enlarge time." [Ex. 113, p. 516.]
99. In October of 2020, there are no text messages from Mr. Sheridan to Mr. Alper informing the Alpers of the Motion for Conditional Default or Entry of Default. [Ex. 47, pp. 259-263.]
100. Mr. Sheridan did not thereafter inform the Alpers of the conditional default. [Ex. 48, p. 279; anticipated testimony of Mr. Alper.]
101. From October 20, 2020 to December 13, 2020, Mr. Alper sent approximately 17 texts requesting the status of the action and/or the draft of the amended complaint. [Ex. 47, pp. 262-267.]
102. Mr. Sheridan's replies, if any, attributed his delay to medical issues suffered by his mother-in-law and having to deal with elder services on her behalf. [Ex. 47, pp. 262-267.]
103. On December 27, 2020 at 4:41 pm, Mr. Alper sent a text to Mr. Sheridan stating:

What are your intentions on my case. That is a direct question that deserves at direct answer. If one is not

received by 10:00 am Monday morning, December 28, 2020, you will leave me no choice but to deliver a letter to the judge in my case. I have had it prepared for some time, but I have been more than patient and have had sympathy for your issues. I'm done. You have strung me along enough. I may also communicate with US District Court Judge Mark Wolf. [Ex. 47, p. 267.]

104. Mr. Sheridan replied at 5:30 p.m.:

Jay, it has is now obvious that I do not have sufficient time to work on your case. Phyllis has gone bad to worse after she broke her hip I started to be accused of abuse (as if I pushed her). The personal pressure on me has increased not decreased (unless I can find a safe home for her ASAP. I am not asking for sympathy. I am stating a fact. Please don't hurt me. This was never intentional after my wife died everything caved in on me. [Ex. 47, p. 268.]

105. Thereafter, Mr. Sheridan and Mr. Alper discussed hiring a paralegal to continue drafting the amended complaint and that Mr. Sheridan will provide the theory of the case to the paralegal but Mr. Sheridan, despite many requests and pleading by Mr. Alper, did not provide anything to the paralegal. [Ex. 47, pp. 268-270; Ex. 48, pp. 271-274.]

106. On January 29, 2021, the Defendant's counsel filed "Defendant Ocwen Loan Serving, LLC's Motion for Default Judgment." [Ex. 36.]

107. Mr. Sheridan did not inform the Alpers of this development. [Ex. 48, p. 279.]

108. In the relevant part, the Motion stated: "To date, Plaintiffs have not answered interrogatories nor filed a Motion to Strike the conditional default. . . . Accordingly, Ocwen now moves the Court to dismiss Plaintiffs' Complaint and claims against Ocwen with prejudice." [Ex. 36, p. 77.]

109. On February 1, 2021, Mr. Sheridan filed a “Verified Motion to Extend by 20 days the Time to Respond to Discovery Requests and Objection to Entry of Judgment.” [Ex. 37.] Mr. Sheridan explained in the Verified Motion that he had “recently experienced several traumas in his life.” [Ex. 37, p. 83.] Mr. Sheridan detailed issues relating to his wife’s death, his own medical issues and medical issues concerning his mother-in-law who had moved in with him. [Ex. 37, pp. 84-85.]
110. On February 10, 2021, the court electronically issued a Notice for Trial Management Conference on May 17, 2021 and Jury Selection for the weeks of June 14, 2021 and June 21, 2021. [Ex. 38, p. 87.]
111. On February 12, 2021, the Defendant’s counsel filed an Objection to Plaintiff’s Motion. [Ex. 39.]
112. In relevant part, the Ocwen Objection stated:

[Ocwen] hereby objects to Plaintiff’s motion seeking yet another extension of time, his seventh, to respond to Ocwen’s written discovery requests served on March 31, 2020. While Ocwen is empathetic to the circumstances that counsel has recounted in support of his belated, seventh request for extension, Ocwen has concluded that no number of additional extensions of time is reasonably likely to result in the production of substantive responses to its written discovery requests, and now the Court has scheduled a Trial Management Conference, jury selection and trial for the Spring of 2021. Plaintiff’s repeated failure to provide discovery responses has left Ocwen unable to fully prepare to its defense to Plaintiff’s allegations, has cost Ocwen time, effort and attorney’s fees over approximately eight (8) months spent repeatedly pressing Plaintiff to meet his discovery obligations and has left Ocwen unable to fully prepare its defense. Having no evident alternative, even after Ocwen sought a conditional default, it still did not receive Plaintiff’s discovery responses. When the time for moving for entry of a Judgement of Default had passed by several weeks without

compliance by Plaintiff, Ocwen did so. Plaintiff filed the present motion to attempt to avoid consequence for its failure to comply by seeking yet another twenty (20) days. Enough must be enough at some point. [Ex. 39, pp. 88-89.]

113. The Objection further noted: “Despite all of these extensions [six], Plaintiff still has not responded to any discovery. Defense counsel has attempted in vain to resolve this matter without having to file a motion.” [Ex. 39, p. 89.]
114. The Objection also raised issues with respect to the possibility of a replacement of counsel stating:
- Also concerning to Ocwen is Plaintiff’s counsel’s suggestion that after eleven months of stasis and obfuscation without progress, Plaintiff may also be seeking replacement counsel. Ocwen suspects that if Plaintiff manages to find new counsel, this will further delay Ocwen’s efforts to get Plaintiff’s written disclosure and production, depose the Plaintiff and try the remaining issues. [Ex. 39, p. 90.]
115. Ocwen’s Motion was granted on February 26, 2021. [Ex. 36, p. 76.]
116. On February 26, 2021, the Court granted Defendant’s Motion for Default Judgment and denied Plaintiff’s Motion Verified Motion to Extend by 20 days the Time to Respond to Discovery Requests and Objection to Entry of Judgment. [Ex. 36, p. 76; Ex. 37, p. 83.]
117. On February 25, 2021, Randall B. Clark, Esquire (“Mr. Clark”) entered an appearance on behalf of the Alpers. [Ex. 40.]
118. Mr. Clark stated in his Notice: “They [the Alpers] also wish to inform the Court that they have asked current counsel, [Mr. Sheridan] to file his notice of withdrawal forthwith. Attorney Sheridan has promised the Alpers that he will do so.” [Ex. 40, p. 93.]

119. Mr. Sheridan did not file a withdrawal with the court. [Ex. 24, pp. 35-36.]

120. On May 17, 2021, the Court held a Trial Management Conference. Following the conference, the Court entered an Order reiterating the Order entered on February 26, 2021 in which Default Judgment was entered against the Alpers. [Ex. 41.]

121. On June 14, 2021, the Alpers filed, pro se, "Plaintiff's Motion to Vacate Default Judgment Order." [Ex. 42.]

122. In relevant part, in the Motion at paragraph 8, the Alpers stated:

We the plaintiffs continued to attempt to communicate with its counsel through any all means possible, Text, Voice, email & in person, but to no avail. Wherever there was a response, Attorney Sheridan's response was either no response to direct questions, misleading answers (Example: I will have it done tomorrow,) or no response at all. We the plaintiffs sought other counsel & considered notifying the court, but was unsure of whether or not it was appropriate." [Emphasis in the original.] [Ex. 42, p. 97.]

123. Additionally, in the Motion at paragraph 11, the Alpers stated in relevant part:

Plaintiffs found out about these issues when plaintiff Jay Alper, after Attorney Sheridan continually would not communicate with the plaintiffs, contacted the court and the court emailed the case summary to me. It was received January 28, 2021 where I, Jay Alper read a conditional default had been issued on October 13, 2020. I immediately contacted Attorney Sheridan, but no response, I hired Attorney Sheridan because I expected to be represented by a court officer. We weren't. Again never notified of the motion for conditional default judgment order or the default judgment order issued by Attorney Sheridan or The

Rockingham County Superior Court. (Emphasis in the original.) [Ex. 42, p. 98.]

124. On June 16, 2021, the Court enter an Order denying Plaintiff's Motion to Vacate Default Judgment Order. [Ex. 44, p. 103.]
125. The Alpers filed the complaint with the ADO on July 4, 2021. [Ex. 1.]

## **II. Rulings of Law**

126. Mr. Sheridan's conduct in this case violates New Hampshire Rules of Professional Conduct 1.1, 1.3, 1.4, 1.5, 8.1, 8.4(c) and 8.4(a).

### **Rule 1.1: Competence**

127. Factual findings set forth above at ¶¶ 6-125 are incorporated by reference.
128. 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.

- 129. The ADO charged Mr. Sheridan with Rule 1.1 violations.
- 130. Mr. Sheridan proposed a stipulation to the Panel regarding Rule 1.1 violations. The Panel rejects any stipulation as to violation of Rule 1.1. as permitted by Supreme Court Rule 37A(III)(aa)(3)(B) and instead decides rule 1.1 on the merits, finding clear and convincing evidence that Mr. Sheridan violated Rule 1.1.
- 131. Mr. Sheridan owed a duty to the Alpers to provide competent representation.
- 132. Mr. Sheridan failed to respond to interrogatory and production requests first served on March 31, 2020, resulting in a Notice of Conditional Default and eventually a Final Default as of February 26, 2021.
- 133. Mr. Sheridan failed to prepare responses to the interrogatory and production requests even after receiving the Notice of Conditional Default.
- 134. Mr. Sheridan failed to file an amended complaint on the Alpers' behalf despite numerous requests by Mr. Alper to do so, and to the extent he determined the complaint should not be amended, he failed to inform Mr. Alper of that fact.

135. Mr. Sheridan failed to pay attention to details and schedules necessary to assure that the Alpers' matter was undertaken with no avoidable harm to their interests.
136. Mr. Sheridan failed to undertake action on his clients' behalf in a timely and effective manner when he failed to gather sufficient information to respond to the interrogatories in a timely manner, failed to address the conditional default and failed to amend the complaint as requested by the Alpers.
137. As such, there is clear and convincing evidence that Mr. Sheridan failed to competently represent the Alpers in violation of Rule 1.1.

**Rule 1.3: Diligence**

138. The facts set forth at ¶¶ 6-125 above are incorporated by reference.
139. Rule 1.3 states as follows:

A lawyer shall act with reasonable diligence and promptness in representing a client.
140. The ADO charged Mr. Sheridan with Rule 1.3 violations. Mr. Sheridan stipulates to the Rule 1.3 violations with the exception of the charge alleging that his rule violation resulted in a final default for the Alpers. The Panel accepts this stipulation. Thus, along with Mr. Sheridan's stipulation, the Panel finds that there is clear and convincing evidence that Mr. Sheridan violated Rule 1.3.
141. Mr. Sheridan had a duty to act with reasonable diligence and promptness in representing the Alpers in their Action.

142. Mr. Sheridan breached this duty by failing to amend the complaint on behalf of the Alpers.
143. Mr. Sheridan breached this duty by failing to timely respond to interrogatories and request for production.
144. Mr. Sheridan breached this duty when he failed to timely respond to the Notice of Conditional Default.
145. As such, there is clear and convincing evidence that Mr. Sheridan failed to diligently represent the Alpers in violation of Rule 1.3.

**Rule 1.4: Communication**

146. The facts set forth at ¶¶ 2-135 above are incorporated by reference.
147. Rule 1.4 states as follows:
  - (a) A lawyer shall:
    - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;
    - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
    - (3) keep the client reasonably informed about the status of the matter.
    - (4) promptly comply with reasonable requests for information; and
    - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
  - (b) A lawyer shall explain the legal and practical aspects of a matter and alternative courses of action to the extent that such explanation is reasonably necessary to permit the client to make informed decisions regarding the representation.

148. The ADO charged Mr. Sheridan with Rule 1.4 violations. Mr. Sheridan fully stipulates to the 1.4 violations as detailed below. The Panel accepts this stipulation. In addition to Mr. Sheridan's stipulation, the Panel finds that there is clear and convincing evidence that Mr. Sheridan violated Rule 1.4.
149. Mr. Sheridan had a duty to keep the Alpers reasonably informed as to the status of their matter, including updating them regarding responses to interrogatory and production requests.
150. Mr. Sheridan breached his duty to the Alpers by failing to adequately and accurately communicate regarding the completion of the interrogatory and production requests.
151. Mr. Sheridan also had a duty to keep the Alpers reasonably informed about the status of their matter including providing notice of the conditional default.
152. Mr. Sheridan breached his duty to the Alpers by failing to adequately and accurately communicate regarding the notice of conditional default.
153. Mr. Sheridan also had a duty to keep the Alpers reasonably informed about the status of their request to amend the complaint.
154. Mr. Sheridan breached his duty to the Alpers by failing to adequately and accurately communicate with the Alpers with regard to their request to amend the complaint.
155. As such, there is clear and convincing evidence that Mr. Sheridan failed to properly communicate with the Alpers in violation of Rule 1.4.

### **Rule 1.5: Fees**

156. The facts set forth at ¶¶ 6-125 above are incorporated by reference.
157. Rule 1.5 states as follows:
- (a) A lawyer shall not enter into an agreement for, charge, or collect an illegal or unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee or expenses include the following:
    - (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
    - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
    - (3) the fee customarily charged in the locality for similar legal services;
    - (4) the amount involved and the results obtained;
    - (5) the time limitations imposed by the client or by the circumstances;
    - (6) the nature and length of the professional relationship with the client;
    - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
    - (8) whether the fee is fixed or contingent.
  - (b) When the lawyer has not regularly represented the client, the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.
  - (c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by law or these rules. A contingent fee agreement shall be in writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses for which the client will

be liable whether or not the client is the prevailing party, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

- (d) (1) A lawyer shall not enter into an arrangement for, charge, or collect any fee in a divorce or other domestic relations matter, which is contingent on:
  - a. securing a divorce;
  - b. establishing or modifying a child support, alimony, property division, or other financial order; or
  - c. obtaining any specific non-financial relief.
- (2) However, a contingent fee arrangement is permissible, subject to 1.5(c) above, in domestic relations matters regarding:
  - a. enforcing a property division order or an accrued obligation for child support or alimony;
  - b. enforcing any other financial order; or
  - c. obtaining a property division of assets hidden during the divorce.
- (e) A lawyer shall not enter into an arrangement to charge or collect a contingent fee for representing a defendant in a criminal case.
- (f) A division of fee between lawyers who are not in the same firm may be made only if:
  - (1) the division is made either:
    - a. in reasonable proportion to the services performed or responsibility or risks assumed by each, or
    - b. based on an agreement with the referring lawyer;
  - (2) in either case above, the client agrees in a writing signed by the client to the division of fees;
  - (3) in either case, the total fee charged by all lawyers is not increased by the division of fees and is reasonable.

158. The ADO charged Mr. Sheridan with Rule 1.5 violations.

159. Mr. Sheridan had a duty not to charge an unreasonable fee.<sup>5</sup>
160. The Panel finds that Mr. Sheridan breached his duty pursuant to Rule 1.5 when he collected an unreasonable fee from the Alpers, because Mr. Sheridan performed very little work on the case, and the work he did do was not substantive. The evidence presented showed that Mr. Sheridan did very little to earn the fees other than file motions to continue. By collecting the fees without doing substantive work, Mr. Sheridan prejudiced his client, as his failure to perform work prohibited success on the Alpers' claims. The Panel finds that Sheridan's inaction while collecting the fees from his client is clear and convincing evidence that Mr. Sheridan violated Rule 1.5.

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<sup>5</sup> The Ethics Committee comment to Rule 1.5 provides: "The language used in Rule 1.5(a) is substantially the same as proposed ABA Model Rule 1.5(a) and changes the prior rule in two respects. First, it replaces the prior rule's standard prohibiting a 'clearly excessive fees' with the ABA Model Rule standard of an 'unreasonable fee.' This change reflects the fact that a 'reasonableness' standard defines a lawyer's obligation to the client with respect to other aspects of their relationship governed by the Rules of Professional Conduct. See, for example, Rules 1.3(a), 1.4(a), 1.8(a), and 3.2. There is no sound policy or other reason why the reasonableness standard should not govern legal fees and expenses. As the Statement of Purpose notes, '[t]he Rules of Professional Conduct are rules of reason.' Whether a fee is reasonable is subject to independent determination. Indeed, the eight factors listed in Rule 1.5(a) all bear on ascertaining the reasonableness of a fee, not whether the fee is 'clearly excessive.' See *In Re Kelley's Case*, 137 N.H. 314, 320 (1993) (under prior rule 1.5(a) to determine whether fee is 'clearly excessive,' a 'generally accepted, reasonable fee' must first be determined); Restatement (Third) of the Law Governing Lawyers § 46 (proposed official draft 1998) (lawyer prohibited from charging a fee 'larger than is reasonable under the circumstances')." The 2004 ABA Model Code Comment for Rule 1.5 Fees provides in relevant part: "Reasonableness of Fee and Expenses [1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable."

161. There is clear and convincing evidence that Mr. Sheridan violated Rule 1.5 as alleged by the ADO.

**Rule 1.15: Safekeeping Property**

162. The facts set forth at ¶¶ 6-125 above are incorporated by reference.

163. Rule 1.15 states as follows:

- (a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, in accordance with the provisions of the New Hampshire Supreme Court Rules. The lawyer shall maintain the minimum financial records with respect to the client and third party funds as may be required by the New Hampshire Supreme Court Rules and shall comply with every other aspect of those Rules. Sufficient records of all other property of clients or third persons shall be kept by the lawyer and shall be preserved for a period of six years after final distribution of such other property or any portion thereof. All client and third party property shall be identified as such and appropriately safeguarded.
- (b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount appropriate for that purpose.
- (c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.
- (d) Funds may be disbursed from lawyer trust accounts upon (A) (i) deposit, receipt of which is acknowledged by the receiving financial institution, of cash, bank cashier's check, certified check, or electronic transfer of funds at least equal to the sum of such disbursements, or (ii) clearance of any other form of deposit by such receiving financial institution, and (B) availability of such funds to the lawyer from the receiving financial institution.
- (e) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a

lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and upon request by the client or third person, shall promptly render a full accounting regarding such property.

- (f) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

164. Mr. Sheridan has stipulated in part to a Rule 1.15 violation. The Panel rejects this stipulation, as it is permitted to do under Supreme Court Rule 37A(III)(aa)(3)(B), and finds that there is not clear and convincing evidence that Mr. Sheridan violated Rule 1.15.

**Rule 8.1: Bar Admission and Disciplinary Matters**

165. The facts set forth at ¶¶ 6-125 above are incorporated by reference.

166. Rule 8.1 states as follows:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact; or
- (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or
- (c) fail to attend a hearing when ordered to do so by a disciplinary authority.

167. The ADO charged Mr. Sheridan with violating Rule 8.1.

168. Mr. Sheridan had a duty to respond to the ADO's request for a mandatory response as requested in the docketing letter.

169. Mr. Sheridan breached that duty when he failed to file a mandatory response to the docketing letter.
170. Mr. Sheridan had a duty to timely respond to the ADO's requests for a complete copy of his file in this matter. However, Mr. Sheridan did not produce a complete copy of his file until 355 days after the initial request, and prior to producing the file, the ADO made multiple additional requests.
171. As such, there is clear and convincing evidence that Mr. Sheridan breached his duty to cooperate with the ADO's investigation in violation of Rule 8.1.

**Rule 8.4(c): Deceit**

172. The facts set forth at ¶¶ 6-125 above are incorporated by reference.
173. Rule 8.4(c) states as follows:

It is professional misconduct for a lawyer to:  
(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
174. The ADO charged Mr. Sheridan with violating Rule 8.4(c). While the Panel finds that there is clear and convincing evidence that Mr. Sheridan violated Rule 8.4(c), the Panel does not believe that his conduct was done willfully.
175. Mr. Sheridan had a duty to not engage in dishonesty, fraud, deceit or misrepresentation.

176. Mr. Sheridan breached that duty when he failed to inform the Alpers of the conditional default despite the fact he was aware of it as evidenced by his October 28, 2020 email to opposing counsel. The Panel finds that this act constitutes dishonesty in violation of the rule, but that Mr. Sheridan's conduct was not willful.
177. Mr. Sheridan further breached his duty when he failed to inform the Alpers of the motion for entry of final default filed on January 29, 2021. The Panel finds that this act constitutes dishonesty in violation of the rule, but that Mr. Sheridan's conduct was not willful.
178. Mr. Sheridan further breached his duty by failing to file an amended complaint and by failing to complete work on the Alpers' matter, despite his many representations that he intended to do so. The panel finds that his representations were dishonest, but that Mr. Sheridan's ability and/or inability to complete the work may not have been willful.
179. Despite the panel's findings that Mr. Sheridan's ability or inability to complete the work was not willful, the Panel finds that there is clear and convincing evidence that Mr. Sheridan violated Rule 8.4(c) because Sheridan's representations that he would and could do the work constitute deceit and dishonesty.

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

180. The ADO charged Mr. Sheridan with violating Rule 8.4(a).

181. In light of the foregoing, the Panel finds that there is clear and convincing evidence that Mr. Sheridan's conduct violated N.H. R. Prof. Conduct 8.4(a).

### **III. Request for Costs**

182. The Hearing Panel recommends to the Professional Conduct Committee that Mr. Sheridan be assessed the expenses incurred by the Professional Conduct Committee in the investigation and prosecution of this matter. See N.H. Sup. Ct. R. 37(19).

Respectfully Submitted,

Hearing Panel

By: 

Brooke Belanger, Panel Chair

January 6, 2023

**Exhibit  
B**

**NEW HAMPSHIRE SUPREME COURT  
HEARINGS COMMITTEE**

Sheridan, William C.  
advs.  
Attorney Discipline Office

#21-017

**Order on Motion to Reconsider**

1. The Respondent's Motion to Reconsider is denied.
2. In a Motion to Reconsider dated January 17, 2023, the Respondent moved for the Panel to reconsider its Order of January 6, 2023, finding him in violation of Rule 8.4(c): Deceit.
3. Rule 8.4(c) states as follows:  
  
It is professional misconduct for a lawyer to:  
(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
4. The Respondent argues that a finding of deceit cannot be made when there is not an intent to deceive.
5. The Panel disagrees with the Respondent's contention that an intent to deceive must be shown.
6. In the Order on the merits, the Panel found that there was clear and convincing evidence that Mr. Sheridan violated Rule 8.4(c). The Panel noted that it did not believe that Mr. Sheridan's conduct was done willfully. The Panel maintains that position today and further notes that a finding of intent is not required for a violation of Rule 8.4.

7. The evidence presented at the hearing supports the finding that that Mr. Sheridan did knowingly violate Rule 8.4 The New Hampshire Rules of Professional Conduct, Rule 1.0(f) define “knowingly” as “denot[ing] actual knowledge of the fact[s] in question. A person’s knowledge may be inferred from circumstances.” The ABA Standards define “knowledge” as “conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.” ABA Standards, Sec. III (“Definitions”). *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.”).
8. Mr. Sheridan’s actions, as outlined in the Panel’s Order of January 17, 2023, demonstrate that he was aware of his obligations as counsel for Mr. Alpers and that Mr. Sheridan failed to meet those obligations. Based on these facts, the Panel infers Mr. Sheridan’s knowledge and finds Mr. Sheridan’s actions meet the definition of knowingly.
9. For the reasons outlined above, the respondent’s Motion to Reconsider is ***denied***.

Respectfully Submitted,

Hearing Panel



Brooke Belanger, Hearing Panel Chair

January 31, 2023