

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2023-0016, In the Matter of Brian D. Kenyon, Esquire

On November 13, 2023, the Attorney Discipline Office (ADO) filed a petition for the summary suspension of Attorney Brian D. Kenyon from the practice of law in New Hampshire. The ADO has alleged, among other claims of professional misconduct, that:

- (1) Attorney Kenyon is employed by Marshall Law Office (Marshall Law), which is owned by Keri J. Marshall, a former attorney who resigned from the bar while under disciplinary investigation.
- (2) Attorney Kenyon is the only attorney who works at Marshall Law.
- (3) Attorney Kenyon has violated, and continues to violate, Rule 5.4(d) of the Rules of Professional Conduct by “practicing law in an association or other entity [Marshall Law] owned by a non-lawyer [Keri J. Marshall].”
- (4) Attorney Kenyon violated Rules 5.3 and 5.5 of the Rules of Professional Conduct by failing to supervise Keri J. Marshall in a client matter and, instead, assisting in the unauthorized practice of law by her in that matter.
- (5) Attorney Kenyon has violated, and continues to violate, Rules 5.5 and 7.5 of the Rules of Professional Conduct by “refusing to remove the Marshall name from law firm signage, letterhead, and invoices.”
- (6) Attorney Kenyon has violated, and continues to violate, Supreme Court Rule 50 and Rule 1.15 of the Rules of Professional Conduct by his “failure to personally reconcile the IOLTA for Marshall Law monthly, or at a minimum review monthly reconciliations prepared by another, and for his failure to maintain client ledgers for Marshall Law clients.”
- (7) Attorney Kenyon violated Rule 3.3 of the Rules of Professional Conduct through his “knowingly false representations on his

[trust accounting compliance certification] for the period ending May 31, 2023.”

- (8) Attorney Kenyon has violated, and continues to violate, Rule 8.1(b) of the Rules of Professional Conduct by refusing to provide information requested by the ADO.

The ADO cites Supreme Court Rule 37(9-B)(a)(1) as grounds for suspending Attorney Kenyon summarily. Rule 37(9-B)(a)(1) authorizes summary suspension when an attorney “has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.” The term “serious misconduct” is defined by Rule 37(9-B)(b) as “any misconduct involving (1) mishandling or misappropriation of client or third party property or funds or (2) any other misconduct which by itself could result in a suspension or disbarment.”

Based on the information submitted by the ADO in its petition, to which Attorney Kenyon has yet to respond, the court finds that Attorney Kenyon “has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.” His summary suspension from the practice of law is therefore necessary to protect the public and to preserve the integrity of the legal profession. Accordingly, it is hereby ordered:

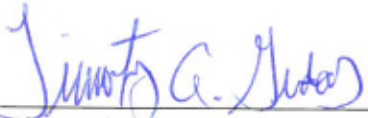
- (1) In accordance with Rule 37(9-B), Attorney Brian D. Kenyon is immediately suspended from the practice of law in New Hampshire pending further order of this court.
- (2) A copy of the petition for summary suspension and of this order shall be served on Attorney Kenyon by certified and first-class mail at the latest address that Attorney Kenyon provided to the New Hampshire Bar Association.
- (3) On or before December 11, 2023, Attorney Kenyon may request a hearing on the issue of whether the summary suspension should be lifted. If a request is made, the hearing will be scheduled for December 18, 2023, or sooner. See Rule 37(9-B)(f).
- (4) On or before December 12, 2023, Attorney Kenyon shall inform his clients in writing of his suspension from the practice of law and of his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13)(b). Attorney Kenyon shall file an affidavit on or before December 13, 2023, stating that he has complied with this requirement. See Rule 37(13)(d). A copy of the affidavit shall be sent to the ADO.

Pending further order of this court, Attorney Kenyon is assessed for all expenses that may be incurred by the ADO in the investigation and prosecution of this matter.

MacDonald, C.J., and Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: December 6, 2023

ATTEST:


Timothy A. Gudas, Clerk

Distribution:
Sara S. Greene, Esquire
Brian D. Kenyon, Esquire
File

JOINT [PROPOSED] ORDER

1. Brian Kenyon shall file a withdrawal in every open case in which he is counsel of record within 14 days. Mr. Kenyon shall provide copies of the withdrawals to the ADO when they are filed with the court.

2. Mr. Kenyon shall prepare and sign refund checks to any undisputed owners of funds in the IOLTA account within 14 days. Kenyon shall provide the original check, along with the owner's name and address, to the ADO. The ADO shall send the checks to the owners. Kenyon will then inform the bank that he renounces any authority as a signatory on the IOLTA account. Any funds in the IOLTA account, the ownership of which is disputed, will be paid to and controlled by the ADO until the disputed ownership is resolved.

3. The interim suspension remains in effect, subject to the exceptions contained in paragraphs 1 and 2.

4. Mr. Kenyon will accept no new clients. He will inform the staff at Marshall Law within 7 days, in writing, that he is no longer an attorney, that he is accepting no new clients, and that there is no currently licensed lawyer practicing at Marshall Law.

5. Mr. Kenyon will provide Keri Marshall with the list of 31 clients previously provided to the ADO, and within 7 days, request, in writing, that she review the list and inform him of any other client matters currently being handled by Marshall Law. If Ms. Marshall informs Mr. Kenyon of any clients not on the list, he shall promptly inform those clients, in writing, that he is suspended, that Ms. Marshall resigned under investigation, that no one at Marshall Law is currently licensed to practice law, and that they should seek other counsel.

6. Mr. Kenyon shall write no checks from the law firm's IOLTA or operating accounts to Marshall Law or Keri Marshall. He shall accept no further compensation payments from Keri Marshall or any of her businesses or entities.

7. Nothing in the forgoing shall be a waiver of the ADO's subpoena to obtain the non-IOLTA account records relating to Marshall Law from TD Bank or any other banking institution. Mr. Kenyon shall take no action regarding this process.

8. Should Mr. Kenyon believe it necessary to take any actions regarding client matters in addition to filing the withdrawals as contemplated by ¶ 1, above, he shall seek leave from the court to take such action, with an appropriate explanation as to why these additional actions are necessary, and provide a Proposed Order for use by the court. As such actions are related to a lawyer discipline matter, they shall be given priority on the court's docket, per Supreme Court Rule 37(1)(d).

9. A copy of Mr. Kenyon's executed Affidavit in Support of Resignation, which complies with Rule 37(11) and will accompany any Request to Resign While Under Investigation, is attached as Exhibit A. When the tasks contemplated above are accomplished, Mr. Kenyon's request to resign shall be submitted to the Professional Conduct Committee, which shall then make

a recommendation to the Supreme Court regarding whether the resignation should be accepted per Supreme Court Rule 37(11). Should his resignation be accepted by the Supreme Court, LD-2023-0016 and ADO #23-015 shall be concluded and final.

10. Mr. Kenyon waives his right to a hearing in LD-2023-0016, *conditioned upon* the acceptance of his resignation by the Supreme Court. Should this condition go unsatisfied, his right to a hearing will be restored and a hearing date will be promptly scheduled. The Affidavit in Support of Resignation shall be inadmissible at any such hearing and no future use may be made of its contents.

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. LD-2023-0016, In the Matter of Brian D. Kenyon, Esquire, the court on January 2, 2024, issued the following order:

The parties' joint motion for further order is granted. The proposed order submitted with the joint motion is approved. Accordingly, the referee hearing that had been scheduled for today is obviated.

This order is entered by a single justice (Hantz Marconi, J.). See Rule 21(7).

**Timothy A. Gudas,
Clerk**

Distribution:
Sara S. Greene, Esquire
William C. Saturley, Esquire
File