

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

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NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Walker, Colleen B.

Advs.

Attorney Discipline Office

#24-009

ORDER

On July 16, 2024, the Professional Conduct Committee voted on this matter. The Committee voted to approve the Stipulation as to Facts, Violations, and Sanction: Six Month Suspension, Stayed for One Year with Conditions.

The Professional Conduct Committee also voted to approve the Agreement to Pay Costs.

July 17, 2024

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

cc: Sara Greene, Esq. (via email)
Colleen B. Walker (via email)
Michael Yelland (via U.S. Mail)

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

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#24-009

STIPULATION AS TO FACTS, VIOLATIONS,
AND SANCTION: SIX MONTH SUSPENSION, STAYED FOR
ONE YEAR WITH CONDITIONS

Respondent Colleen B. Walker, Esq., and the Attorney Discipline Office (ADO) stipulate as follows:

A. Facts

1. Ms. Walker is an attorney licensed to practice law in New Hampshire. Ms. Walker was admitted to practice on October 29, 1999.
2. Ms. Walker was also admitted to practice law in Massachusetts on December 16, 1986. She is currently on active status for the Massachusetts Bar.
3. At all times material to this proceeding, Ms. Walker operated her law office as the Law Office of Colleen B. Walker, 57 Pepperell Rd., Brookline, NH 03033.
4. Ms. Walker does not have a previous disciplinary history.

1. Summary

5. This matter arises from Ms. Walker's role as counsel for the administrator of an estate, and later as the administrator of the estate, in the *Estate of John Sumner Yelland*, Case No. 316-2022-ET-02650.
6. John Yelland died intestate on October 7, 2022. At the time of his death, he was married to Nancy M. Orlando and had three children from a previous marriage:

Mark Yelland, Michael Yelland, and Laura Roderick. The disciplinary matter was initiated by grievance submitted by Michael Yelland, received by the ADO on February 20, 2024.

7. Michael Yelland alleges that Ms. Walker has engaged in a wide variety of misconduct, including that Ms. Walker engaged in various conspiracies intended to harm Michael Yelland or benefit Ms. Walker. To distill the allegations, Michael Yelland claims that Ms. Walker misappropriated \$20,000 of estate funds, fabricated a creditor's claim against the estate for personal gain,¹ intentionally deceived him and the probate court regarding Ms. Orlando's ability to serve as administrator of the estate, and intentionally deceived him and the probate court regarding advances to his brother Mark Yelland.
8. The ADO requested and received Ms. Walker's IOLTA bank statements, and reviewed estate account bank records. The ADO has concluded that there is not clear and convincing evidence of any dishonesty, misappropriation, or self-dealing by Ms. Walker.
9. However, as set forth further below, Ms. Walker did violate her duties of diligence and her duty to avoid conflicts of interest. This conduct contributed to delays in probating the estate, in part because of the level of distrust between Michael Yelland and the decedent's spouse at the time of death.

2. Background of Underlying Estate Matter

10. By way of background, John Yelland and Nancy Orlando were legally married at the time of his death. They had entered into a prenuptial agreement dated

¹ Edward Trembly was the owner of a 66% interest in Trillium Pines, LLC, and the deceased was a 34% owner. Edward Trembly filed a Statement of Claim in the estate on October 6, 2023. He is now represented by Ruth Hall, Esq. of the Alfano law firm. The LLC owned land in Dublin, New Hampshire. Mr. Trembly's position is that Mr. Yelland stopped contributing to the business and Mr. Trembly paid "the entire mortgage, taxes, insurances and other expenses as well as almost all of the legal expenses incurred because of a legal dispute with the town of Dublin." His Statement of Claim asserts that these expenses were around \$55,000. There is no evidence Ms. Walker manufactured this claim by Mr. Trembly.

November 11, 2002. Ms. Walker did not draft the prenuptial agreement, nor did she advise Ms. Orlando concerning the content of the prenuptial. Ms. Walker, did, however, notarize Ms. Orlando's signature on the agreement on November 11, 2002. At the time, Ms. Walker did not carefully read the prenuptial agreement.

11. Ms. Walker advised Ms. Orlando in other matters thereafter, representing Ms. Orlando almost exclusively in various real estate transactions. She also drafted Ms. Orlando's estate plan.
12. Ms. Walker was counsel to Ms. Orlando in her role as administrator of the John Yelland estate. Ms. Orlando filed a Petition for Estate Administration, with Ms. Walker's assistance, on November 3, 2022. Ms. Orlando was appointed administrator of the estate on February 24, 2023.
13. In probate pleadings, Ms. Orlando was listed as an heir along with the three children of John Yelland. Ms. Orlando opened an estate account ending in XXXX-7490 at LowellFive Bank on March 7, 2023.
14. Michael Yelland objected to Ms. Orlando's appointment as administrator, and the estate matter immediately became contentious. The docket shows nearly 200 items, with over 70 pleadings filed by Michael Yelland, who, to summarize, has objected in general to the handling of the estate by Ms. Orlando and later by Ms. Walker. The Court found the filings so numerous that an Order issued on December 26, 2023, barring further pleadings pending a then-upcoming structuring conference.
15. In short, two of the heirs, Mark Yelland and Laura Roderick, agreed with estate decisions by Nancy Orlando, and later by Ms. Walker when she was appointed successor administrator, but Michael Yelland consistently objected to matters.

3. The Prenup: Ms. Orlando Can Neither Inherit Nor Serve as Administrator

16. On August 23, 2023, Michael Yelland filed a motion to remove Nancy Orlando as an heir, alleging that Ms. Orlando stated she "hate[d] [the deceased] guts," did not live with the deceased for 20 years prior to his death, and that was she was not his

wife “in any way but on paper.” Ms. Walker objected to this motion because at the time of death John Yelland and Nancy Orlando were in fact legally married. Michael Yelland’s motion was denied.

17. Michael Yelland’s motion to remove Ms. Orlando as administrator filed in August 2023 did not involve the prenuptial agreement, as Michael Yelland was unaware of the agreement at the time.
18. On December 19, 2023, Ms. Walker, in response to various questions from Michael Yelland, emailed Michael Yelland a copy of the prenuptial agreement. She did not review it at that time. Her recollection at the time was that it dealt primarily with real estate; specifically, with a Monticello, Florida property that was owned solely by Nancy Orlando but in which she had granted John Yelland a life estate. Ms. Walker did not get a response from Michael Yelland concerning the prenuptial after forwarding it to him in December 2023, and did not give it further thought.
19. In fact, the prenuptial agreement specifically disinherited Ms. Orlando and stated that she could not act as administrator or executor of John Yelland’s estate. Michael Yelland brought this language to Ms. Walker’s attention, copying his siblings, via email on March 18, 2024. On March 20, 2024, Ms. Walker filed a Motion to Amend Heirs at Law, noting her mistake, and attaching the prenuptial agreement as well as Michael Yelland’s email dated March 18, 2024. The Motion was granted on April 6, 2024.
20. Ms. Walker regrets this oversight and recognizes that her failure to note the operative language in the prenuptial caused delay in the administration of the estate, and allowed Ms. Orlando, who was prohibited from such a role, to act as administrator from February 24, 2022, until August 3, 2023. During this time period, as set forth herein, *supra*, Ms. Orlando made certain interim payments to Mark Yelland, and paid Ms. Walker’s attorneys’ fees.

4. The Advances Paid by Then-Administrator Orlando to an Heir

21. While Ms. Orlando was administrator, and while represented by Ms. Walker, Ms. Orlando made various payments from the estate account to Mark Yelland as an advance on his inheritance. Those payments totaled \$5,000 and were as follows:
- 3/13/23 \$2,000.00
 - 4/6/23 \$1,000.00
 - 4/27/23 \$1,000.00
 - 5/10/23 \$1,000.00
22. Ms. Walker learned of the total of these payments after the final payment had been made. She thereafter suggested that Mark Yelland sign an acknowledgement of this advance. Ms. Walker drafted the acknowledgment, which contained a simple signature line and the statement “executed this ____ day of March, 2023.” The acknowledgment was not an affidavit, nor signed under oath by Mark Yelland, nor notarized by Ms. Walker.
23. As noted above, the final payment did not occur until May 2023. Michael Yelland asserts this is fraudulent behavior by Ms. Walker or a forgery. Ms. Walker acknowledges that the way she chose to date the acknowledgement was sloppy on her part. She would testify that her “March ____, 2023” date on the acknowledgement was not as precise as it should have been given the timeline of the four payments.
24. However, Ms. Walker did accurately note the total \$5,000 advance in the acknowledgment, which also stated that the \$5,000 would be “accounted for in the final distribution of [the] estate.”
25. During the course of the ADO’s investigation, the ADO requested various pleadings from the probate court. The interim payments to Mark Yelland were not listed on the Administrator’s Accounting that Ms. Walker filed on behalf of the estate on November 9, 2023. They should have been listed on that Accounting as part of Schedule 8, “other disbursements,” which would have required that Ms.

Walker “list any other disbursements not listed in schedules 1 through 7 above. List the amount disbursed, date it was disbursed and the name of the person receiving the disbursement.”

26. Moreover, these payments should have been the subject of a Motion for Interim Distribution, and Ms. Orlando should have been so advised by Ms. Walker. At the time of the payments to Mark Yelland, the estate account held around \$159,110. Still, the estate had one creditor’s claim of \$55,000, and a motion for interim distribution was necessary for the other heirs to object if they wished, and for the Court to consider the estates assets and debts in determining whether to approve the interim distribution.
27. Ms. Walker acknowledges, in retrospect, that she should have advised Ms. Orlando not to make any interim distributions until a motion for interim distribution was granted.
 5. The \$20,000 Transfer from the Estate Account to Ms. Walker’s IOLTA
28. On July 6, 2023, Ms. Orlando resigned as fiduciary citing health reasons and nominating Ms. Walker as a “suitable person” for the successor fiduciary.
29. On July 7, 2023, Ms. Walker filed a Motion for Successor Fiduciary on behalf of herself and Ms. Orlando requesting that the Court appoint Ms. Walker as successor fiduciary. On July 11, 2023, the Court held a hearing during which the three heirs assented to Ms. Walker serving as successor fiduciary.
30. The Court granted the Motion on July 11, 2023, subject to Ms. Walker obtaining a bond. Ms. Walker thereafter procured the bond, and the Certificate of Appointment naming her fiduciary issued on August 3, 2023.
31. In the interim, *i.e.*, after Ms. Orlando could not perform her duties as administrator, but before Ms. Walker had obtained the bond to officially be appointed administrator, Ms. Walker advised Ms. Orlando to transfer \$20,000 of

estate funds from the estate account to Ms. Walker's IOLTA account.² This occurred on July 19, 2023. As of this date, Ms. Walker was not yet a signatory on the estate account because she had not received the Certificate of Appointment. Ms. Walker wanted access to estate funds in the event of any emergency or cost the estate might incur prior to her official appointment as administrator.

32. Ms. Walker's IOLTA records indicate she was never out of trust as to these funds, and she accounted to Michael Yelland on or around December 10, 2023, regarding disbursements made from that \$20,000, which bank records demonstrate related to the estate. On December 19, 2023, Ms. Walker transferred \$16,505 back into the estate account, representing the balance of the \$20,000 after the estate-related distributions were made.³

6. Ms. Walker's Conflict of Interest

33. On March 29, 2024, the Court held a structuring conference to conduct a "systematic review of the outstanding disputes." Relevant to this disciplinary matter, the Court determined *sua sponte* that it was "in the best interest of the estate administration to remove Attorney Walker and appoint a special administrator" based on Ms. Walker's "over twenty-year professional relationship with Ms. Orlando." The Court noted that although the other two heirs expressed

² Mr. Yelland's grievance states that the \$20,000 was transferred from the estate account to "her own [Ms. Walker's] personal account." That did not occur, and the ADO has explained to Mr. Yelland that funds in an IOLTA account may *not* include a lawyer's personal funds and are meant to hold only client funds, with the attendant fiduciary obligations that govern IOLTAs.

³ Ms. Walker disbursed a total of \$3,495.00 from the IOLTA account related to the Yelland Estate from the \$20,000 as follows: on 8/3/23, \$500.00 for legal fees, on 8/8/23, \$1500.00 for a personal administrator fee, on 8/21/23, \$500.00 for legal fees, on 8/21/23, \$895.00 for reimbursement for a check issued from Ms. Walker's operating account to Peterborough Marble & Granite for a tombstone, and on 9/1/23, \$100.00 for the cost of an ad for the funeral service at the request of Michael Yelland.

- continuing confidence in Ms. Walker's conduct, the "inherent conflict of interest, and the litigious nature of this matter," required her removal as administrator.
34. At the time of this Stipulation's submission, a mediation originally scheduled for June 26, 2024 was cancelled at the request of two of the three heirs. Pursuant to the Probate Court's Order following the March 29, 2024 structuring conference, Ms. Walker was to remain fiduciary for the limited purpose of assisting in mediation. She was willing to serve in this capacity, but was informed by the mediator that Mark and Michael Yelland cancelled the mediation.
 35. The Probate Court will assist in appointing a third-party special administrator if mediation does not occur or is not successful. The fees of the special administrator, if they are incurred, will come from the assets of the estate.
 36. On April 16, 2024, Ms. Walker voluntarily returned her administrator and attorney's fees to the estate account, which totaled \$7,500. They were properly disclosed on the November 9, 2023 Accounting.

B. Disciplinary Rules Violated

37. The parties agree that Ms. Walker's conduct in this case involves violations of the New Hampshire Rules of Professional Conduct, as follows:

Rule 1.1: Competence

38. The facts set forth at ¶¶ 36 above are incorporated by reference.
39. 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.
40. Ms. Walker violated Rule 1.1 when she failed to provide competent representation in the Yelland estate by failing to: (1) review the prenuptial agreement, which she notarized; (2) prohibit her client from serving as fiduciary and receiving any intestate share of the estate; (3) include the \$5,000 interim distributions to Mark Yelland in the Accounting filed with the probate court, and (4) advise her client that any such distributions required a Motion for Interim Distribution.

Rule 1.3: Diligence

41. The facts set forth at ¶¶ 1-40 above are incorporated by reference.
42. Rule 1.3 states as follows:
- A lawyer shall act with reasonable diligence and promptness in representing a client.
43. Ms. Walker violated Rule 1.3 when she failed to provide competent representation in the Yelland estate by failing to: (1) review the prenuptial agreement, which she notarized; (2) prohibit her client from serving as fiduciary and receiving any intestate share of the estate; (3) include the \$5,000 interim distributions to Mark Yelland in the Accounting filed with the probate court, and (4) advise her client that any such distributions required a Motion for Interim Distribution.

Rule 1.7: Conflicts of Interest

44. The facts set forth at ¶¶ 1-43 above are incorporated by reference.
45. Rule 1.7 states as follows:
- (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) the representation of one client will be directly adverse to another client; or
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
46. Ms. Walker violated Rule 1.7(a)(2) when she served as fiduciary/administrator of the John Yelland estate because that presented a significant risk that her representation of the estate would be materially limited by her responsibility to Nancy Orlando, a former client of many years.

Rule 3.3: Candor Toward the Tribunal

47. The facts set forth at ¶¶ 1-46 above are incorporated by reference.
48. Rule 3.3 states in pertinent part:
- (a) A lawyer shall not knowingly:
 - (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
 - (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
 - (3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

49. Ms. Walker's failure to disclose the \$5,000 in interim distributions to Mark Yelland, in the Administrator's Accounting that she filed on November 9, 2023, violates Rule 3.3(a).

Rule 8.4(a): General Rule

50. Having found the foregoing violations, there is clear and convincing evidence that Ms. Walker's conduct, as described herein, violated N.H. R. Prof. Conduct 8.4(a).

C. Recommended Sanction

51. The Attorney Discipline Office and Ms. Walker jointly agree that a stayed suspension is the appropriate sanction in this matter, as her conduct involves a combination of a negligent and knowing state of mind which caused injury to the estate. This sanction would serve the purposes of attorney discipline.
52. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.
53. The purpose of the Court's disciplinary power is "protecting the public, maintaining public confidence in the bar, preserving the integrity of the legal profession, and preventing similar conduct in the future." *Conner's Case*, 158 N.H. 299, 303 (2009). "The sanction...must take into account the severity of the misconduct." *Coffey's Case*, 152 N.H. 503, 513 (2005).
54. Although the Court has not adopted the *Standards*, it looks to them for guidance. *Conner's Case*, 158 N.H. at 303. The *Standards* set forth a four part analysis for courts to consider in imposing sanctions: "(a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors." *Id.* (quoting *Douglas' Case*, 156 N.H. 613, 621 (2007)); *Standards* § 3.0.
55. The first three parts of the analysis create the framework for characterizing the misconduct and determining a baseline sanction. *See Conner's Case*, 158 N.H. at 303 (stating that "[i]n applying these factors, the first step is to categorize the

respondent's misconduct and identify the appropriate sanction"). Once the baseline sanction is determined, the Court then looks to the fourth and final part of the analysis: the existence of any aggravating or mitigating factors, and whether they affect the baseline sanction. *See id.* (stating that, "[a]fter determining the sanction, [the Court] consider[s] the effect of any aggravating or mitigating factors on the ultimate sanction").

56. Under the first prong of the analysis, Ms. Walker violated duties owed to her client and to the legal system. *See Standards*, Sec. II ("Theoretical Framework," setting forth duties owed to clients, the public, the legal system, and the profession).
57. With respect to Ms. Walker's mental state under the second prong of the sanction analysis, the parties agree that Ms. Walker's mental state was both negligent and knowing. For example, she negligently failed to carefully review the prenuptial agreement when Michael Yelland inquired about it in December 2023.
58. Part of Ms. Walker's conduct, however, was knowing. Rule 1.0(f) of the N.H.R. Prof. Conduct defines "knowingly" as "denot[ing] actual knowledge of the fact[s] in question. A person's knowledge may be inferred from circumstances." 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.>").
59. Here, Ms. Walker had a conscious awareness of the interim distributions to Mark Yelland, as evidenced by the acknowledgement that she drafted, and she filed the Administrator's Accounting aware that it failed to disclose these distributions. That notwithstanding, Ms. Walker did memorialize in the acknowledgment signed by Mark Yelland the accurate, full amount, as well as the requirement that the payments to Mark Yelland would be accounted for in the estate's final accounting.

60. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Ms. Walker's misconduct.
61. Ms. Walker's conduct injured the estate in two respects. First, her conflict of interest required that the Court remove her as administrator and appoint a Special Administrator, and those costs will come out of the estate. Second, Ms. Walker's negligence allowed for Ms. Orlando to be appointed administrator, which was prohibited by the prenuptial. Given the poor relationship between Ms. Orlando and Michael Yelland, Ms. Orlando serving in this capacity increased the distrust between them, and thereby contributed to the litigiousness of the probated matter.
62. In recognition of these failures, Ms. Walker voluntarily returned all her legal fees, and deposited \$7,500 into the estate account.
63. The parties agree that the baseline sanction in this matter, since some of the misconduct was knowing, is a suspension. However, because mitigating factors significantly outweigh aggravating factors, the parties agree that staying the suspension for a period of one year, with conditions aimed at preventing further misconduct, serves the purposes of discipline.
64. Ms. Walker's 1.7 rule violation implicates Section 4.3 of the *Standards*. That Section provides:

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving conflicts of interest:

 - 4.31 Disbarment is generally appropriate when a lawyer, without the informed consent of client(s):
 - (a) engages in representation of a client knowing that the lawyer's interests are adverse to the client's with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to the client; or
 - (b) simultaneously represents clients that the lawyer knows have adverse interests with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client; or

(c) represents a client in a matter substantially related to a matter in which the interests of a present or former client are materially adverse, and knowingly uses information relating to the representation of a client with the intent to benefit the lawyer or another, and causes serious or potentially serious injury to a client.

4.32 Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client.

4.33 **Reprimand is generally appropriate when a lawyer is negligent in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes injury or potential injury to a client.**

4.34 Admonition⁴ is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether the representation of a client may be materially affected by the lawyer's own interests, or whether the representation will adversely affect another client, and causes little or no actual or potential injury to a client.

(emphasis added).

65. Ms. Walker's conduct in this matter, when considered under *Standard* 4.33, would call for a baseline sanction of public censure.

66. Ms. Walker's 1.3 rule violation implicates Section 4.4 of the *Standards*. That Section provides:

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving a failure to act with reasonable diligence and promptness in representing a client:

4.41 Disbarment is generally appropriate when:

(a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or

⁴ The term "admonition," as used in the *ABA Standards*, is analogous to a reprimand in New Hampshire. The term "reprimand," as used in the *ABA Standards*, is analogous to a public censure in New Hampshire.

- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

4.43 **Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.**

4.44 Admonition is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

(emphasis added).

67. Ms. Walker's conduct in this matter, when considered under *Standard* 4.43, would call for a baseline sanction of public censure.

68. Ms. Walker's 1.1. rule violation implicates Section 4.5 of the *Standards*. That Section provides:

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to provide competent representation to a client:

4.51 Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

4.52 Suspension is generally appropriate when a lawyer engages in an area of practice in which the lawyer knows he or she is not competent, and causes injury or potential injury to a client.

4.53 **Reprimand is generally appropriate when a lawyer:**

- (a) **demonstrates failure to understand relevant legal doctrines or procedures and causes injury or potential injury to a client; or**

(b) is negligent in determining whether he or she is competent to handle a legal matter and causes injury or potential injury to a client.

4.54 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in determining whether he or she is competent to handle a legal matter, and causes little or no actual or potential injury to a client.

(emphasis added).

69. Ms. Walker's conduct in this matter, when considered under *Standard 4.53*, would call for a baseline sanction of public censure.

70. Ms. Walker's 3.3 rule violation implicates Section 6.1 of the *Standards*. That Section provides:

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving conduct that is prejudicial to the administration of justice or that involves dishonesty, fraud, deceit, or misrepresentation to a court:

6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.13 Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.14 Admonition is generally appropriate when a lawyer engages in an isolated instance of neglect in determining whether submitted statements or documents are false or in failing to disclose material information upon learning of its falsity, and causes little or no actual

or potential injury to a party, or causes little or no adverse or potentially adverse effect on the legal proceeding.

(emphasis added).

71. Ms. Walker's conduct in this matter, when considered under *Standard* 6.12, would call for a baseline sanction of a suspension.
72. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g.*, *Conner's Case*, 158 N.H. at 303.
73. In this case there is one aggravating factor present: Ms. Walker's substantial experience in the practice of law. *See Standards* § 9.22.
74. Mitigating factors include absence of a disciplinary history, absence of a dishonest or selfish motive, timely good faith effort to rectify consequences of misconduct (*i.e.*, promptly filing a Motion to Remove Administrator when she read the operative language in the prenuptial, returning her legal fee), cooperative attitude towards the ADO with full disclosure, and remorse. *See Standards* § 9.32. Ms. Walker has been extremely forthcoming with the ADO, prompt in her responses, and accountable for her actions.
75. The parties agree that given the baseline sanction, and the fact that the mitigating factors significantly outweigh aggravating factors, a downward departure to a stayed suspension, with conditions aimed at educating Ms. Walker further on probated estate matters, while monitoring her for no further misconduct, serves the purposes of discipline and is an appropriate sanction in this case.

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

76. Ms. Walker agrees to comply with the following conditions for one year, which shall begin on the date the Professional Conduct Committee accepts this Stipulation:
 - a. Respondent shall complete six hours of CLE specifically in the area of probated estate matters, in addition to the minimum yearly CLE

requirements; the ADO's approval of such extra CLE shall be obtained by Respondent prior to undertaking it;

b. Respondent will engage in no professional misconduct during the one-year period.

77. If it is alleged that Ms. Walker violated any of the conditions enumerated at Paragraph 76(a) above, the following shall apply:

(a) Upon motion by Disciplinary Counsel, the Professional Conduct Committee may determine whether any of the conditions enumerated at Paragraph 76(a) have been violated. If it determines that a condition has been violated, the Committee shall lift the stay and impose a six-month suspension. If the Committee determines that no condition of this Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms.

(b) Respondent may request that the Professional Conduct Committee remand the matter to the Hearings Committee so that a Hearing Panel may be appointed to decide the sole issue of whether a condition under Paragraph 76(a) of this Stipulation has been violated. During such hearing, it shall be the burden of Disciplinary Counsel to demonstrate by a preponderance of evidence that a condition listed in Paragraph 76(a) has been violated.

(c) If a Hearing Panel determines that a condition has been violated, the Panel shall lift the stay and impose a six-month suspension. If the Hearing Panel determines that no condition of the Stipulation has been violated, the Stipulation shall continue in force and effect pursuant to its terms. The PCC shall review the decision of the Hearing Panel.

78. If a new grievance or referral setting forth new, material facts supporting a finding of misconduct is filed against Ms. Walker during the one-year period of the stay, thus implicating the condition at Paragraph 76(b), the following shall apply:

(a) So long as a grievance or referral is filed within the one-year period of the stay ("the subsequent proceeding"), and the alleged misconduct occurred, at

least in part. during the one-year period, the stay can be lifted and the six month suspension imposed at such time as there is a finding of misconduct in the subsequent proceeding, even if such finding occurs beyond the one-year period of the stay.

- (b) Pending the final resolution of the subsequent proceeding, the matter underlying this Stipulation shall not be closed.
- (c) If the conditions of Paragraph 76(a) have been met, Ms. Walker will not have to continue to comply with those provisions while the subsequent proceeding is pending.
- (d) The Respondent shall bear all costs associated with compliance and enforcement of the terms and conditions of this Stipulation.
- (e) Nothing herein shall be construed to limit prosecution of any new grievance or referral involving conduct of Respondent occurring during the one year period of stay.
- (f) If a grievance or referral is filed within the one-year period of the stay, Ms. Walker shall provide written notice to Disciplinary Counsel within thirty (30) days of receipt of notice of the grievance or referral, *time being of the essence*, along with supporting information or documentation.

E. Costs

79. Subject to the PCC's approval of Ms. Walker's Stipulation, Ms. Walker agrees to pay the costs incurred by the ADO in the investigation and enforcement of this disciplinary matter. *See* Supreme Court Rule 37(19). Her agreement to pay the costs incurred by the ADO is the subject of a separate agreement signed by Ms. Walker.


F. Effect of Stipulation

80. Ms. Walker understands that this Stipulation represents a recommended disposition, and that the PCC may accept, reject, or conditionally accept the Stipulation pursuant to Rule 37A(III)(aa)(1).

81. Ms. Walker acknowledges that the admissions of misconduct and the proposed disposition contained in this Stipulation are freely, knowingly, and voluntarily submitted; that she is not entering this Stipulation because of any threats, coercion, or duress, or of any promises or inducements not set forth in the Stipulation.
82. Ms. Walker understands that she has a right to obtain counsel regarding this Stipulation and, that she is fully aware of the consequences of the Stipulation.
83. Ms. Walker knowingly and intelligently waives her right to a hearing.


Respectfully submitted,

Dated: 7/1 2024



Colleen B. Walker, Esquire
Respondent

Dated: 7/12 2024



Sara S. Greene, Esquire
Disciplinary Counsel

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
*Kathleen M. Ames, Vice Chair
Caroline K. Leonard, Esq., Vice Chair
*Ronald K. Ace
Richard C. Gagliuso, Esq.
*Everett S. Grass
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Robin D. Melone, Esq.
Mitchell M. Simon, Esq.
Eric R. Wilson, Esq.
Trudy Renfors, Admin. Asst.

*non-lawyer member

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Walker, Colleen B.

advs.

Attorney Discipline Office

#24-009

ORDER

Having complied with the terms set forth in Order dated July 17, 2025, on August 19, 2025 the Professional Conduct Committee approved the closing of this case conditional upon receiving payment of costs (\$107.15).

DATED: August 20, 2025

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

cc: Sara Greene, Esq. (via email)
Colleen B. Walker (via email)
Michael Yelland (via U.S. Mail)