

New Hampshire Supreme Court  
**Professional Conduct Committee**

*a committee of the attorney discipline system*

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**NEW HAMPSHIRE SUPREME COURT**  
**PROFESSIONAL CONDUCT COMMITTEE**

Trunzo, Thomas H., Jr.

advs.

Attorney Discipline Office

#23-002

**ORDER**

On September 17, 2024, the Professional Conduct Committee deliberated the stipulation as to facts, violations, and sanction: one-year suspension stayed for one year with mandatory conditions. Following review of the stipulation, the Committee voted to accept it and hereby recommends to the Supreme Court that the Respondent have a one-year suspension stayed for one year with mandatory conditions. The Committee also approved the agreement to pay costs. Mitchell M. Simon, Esq. abstained from this vote.

DATED: September 23, 2024

/s/Caroline K. Leonard  
Caroline K. Leonard, Vice Chair

cc: Elizabeth M. Murphy, Assistant Disciplinary Counsel (via email)  
Thomas H. Trunzo, Jr. (via email)

**NEW HAMPSHIRE SUPREME COURT  
PROFESSIONAL CONDUCT COMMITTEE**

Trunzo, Thomas H., Jr.

advs.

Attorney Discipline Office

#23-002

**STIPULATION AS TO FACTS, VIOLATIONS, AND SANCTION:  
ONE-YEAR SUSPENSION STAYED FOR ONE YEAR  
WITH MANDATORY CONDITIONS**

Respondent Thomas H. Trunzo, Jr., Esq., and the New Hampshire Supreme Court Attorney Discipline Office (“ADO”) stipulate as follows:

**A. Facts**

1. Mr. Trunzo is an attorney licensed to practice law in New Hampshire. Mr. Trunzo was admitted to practice in 1980.
2. Mr. Trunzo was also admitted to practice law in Massachusetts on December 23, 1981. He is currently on inactive status for the Massachusetts Bar.
3. Mr. Trunzo was also admitted to practice law in Vermont on February 2, 1988. He is currently on inactive status for the Vermont Bar.
4. At all times material to this proceeding, Mr. Trunzo operated his law office as Law Offices of Thomas H. Trunzo, Jr., PA, 797 NH Route 10, Orford, NH. At all times material to this proceeding, Mr. Trunzo was a solo practitioner without support staff.
5. Mr. Trunzo does not have a previous disciplinary history.

6. This matter arises from a grievance filed by R. Peter Decato, Esq. on December 16, 2022. The grievance raises issues concerning Mr. Trunzo's role as Special Administrator of the Estate of Wanda Louise Shambo (the "Estate"), pending in the 2<sup>nd</sup> Circuit Court-Probate Division-Haverhill (the "Court"), Case No. 315-2016-ET-00254. Mr. Decato represented one of the heirs of the Estate, Wayne Shambo ("Wayne").<sup>1</sup>
7. Ms. Shambo died on April 22, 2016. The Estate was pending with the Court from May 2016 until the matter was finally resolved on August 14, 2023.
8. On July 8, 2016, Mr. Trunzo was appointed Special Administrator pending the filing of a \$170,000 bond with corporate sureties.
9. Pursuant to the Inventory of Fiduciary filed by Mr. Trunzo on February 24, 2017, the Estate consisted of real estate initially valued at \$107,500 and bank accounts valued at \$40,091.38, for a total value of \$147,591.38.
10. The Estate also had potential but likely disputed claims against Wayne, Rickie Shambo ("Rickie"), and Floyd E. Jones, Jr., regarding alleged missing or misappropriated personal property belonging to the decedent's Estate.
11. On July 12, 2017, Mr. Trunzo filed a Motion & License to Sell Real Estate to Pay Demands that was granted by the Court on July 26, 2017. Despite having a license to sell, Mr. Trunzo was unable to sell the property.
12. On October 11, 2017, the Court issued an order in response to Wayne Shambo's Motion to Remove Administrator which argued that Mr. Trunzo had failed to properly administer the Estate. In response, Mr. Trunzo argued that the property had been left in deplorable condition when it was vacated by Wayne and Wanda Shambo and that he had taken steps to make the property more presentable, listed the property for sale with a real estate agent and paid the property taxes, among other things.

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<sup>1</sup> Supplements to the grievance were filed on December 30, 2022, February 18, 2023, February 28, 2023, March 27, 2023, and May 9, 2023.

13. The Court noted that the Estate was “plagued by significant ill will between the brothers, Ricki and Wayne.” The Court ordered Mr. Trunzo to accomplish certain tasks within 90 days. The tasks were specific to the inventory and sale of the firearms of the Estate, as well as the motor vehicles and other personal property.
14. On July 11, 2018, the Court issued another order to address a Motion for Extension of Time filed by Mr. Trunzo and Objection and Renewed Request to Remove the Administrator filed by Mr. Decato on behalf of Wayne Shambo. The Court found that the Motion for Extension of Time was moot, that no sanctions were to be imposed on Mr. Trunzo and ordered Mr. Trunzo to comply with the October 11, 2017 order.<sup>2</sup>
15. On September 19, 2019, Mr. Trunzo filed an Administrator’s Further Report to the Court explaining that he had been unable to locate certain items of inventory that were being held by Wayne Shambo. Mr. Trunzo asserted that Wayne Shambo had given inconsistent statements regarding the items in the inventory, that he needed to depose Wayne Shambo, but that such effort was hindered because Wayne Shambo was incarcerated. Mr. Trunzo also stated that the Wanda Shambo property was being marketed and the asking price was lowered to \$59,000 to attract buyers.
16. On May 29, 2020, Wayne Shambo filed a Request to Proceed Against the Fiduciary Bond citing Mr. Trunzo’s failure as special administrator to fully administer the Estate. He later filed a second motion seeking the same, which was granted by Court order dated March 18, 2021. As a result, suit was brought on the bond against the bond company, The Ohio Casualty Insurance Company (“Ohio Casualty”).
17. As of March 18, 2021, not all of the tasks ordered in the March 11, 2017 order were completed.

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<sup>2</sup> By that date, only one task from the those ordered in the October 11, 2017 order was accomplished.

18. Mr. Decato filed suit in the Grafton County Superior Court on or about September 21, 2021 against the bond company, Ohio Casualty (*Judge of Probate Grafton County v. The Ohio Casualty Insurance Company*, Case No. 215-2021-CV-00264 (Grafton Superior Court)).<sup>3</sup> The Complaint was brought by Mr. Decato on behalf of the Judge of Grafton Probate Court against Ohio Casualty. *See* RSA §565:8.
19. On April 12, 2022, the parties attended a mediation in the Ohio Casualty matter. Mr. Trunzo was included in a portion of the mediation but excluded from the deliberations in reaching the settlement. The mediation between Ohio Casualty and Mr. Decato resulted in a settlement agreement, which set forth as follows:
  1. Defendant will pay the total sum of Forty-Two Thousand Five-Hundred Dollars (\$42,500.00) to the Estate of Wanda Shambo, said payment to be made only upon satisfaction of the following conditions:
    - (a) Approval of this settlement by the Grafton County Probate Court in the estate action captioned, In re Wanda Shambo, Grafton County Probate Court, No. 315-2016-ET-00254;
    - (b) Entry of full discharge and release of both Special Administrator Thomas Trunzo and The Ohio Casualty Insurance Company, as surety with respect to all claims and issues concerning In re Wanda Shambo, Grafton County Probate Court, No. 315-2016-ET-00254 and the above-captioned matter, reserving and not releasing the surety's indemnity claim as to Attorney Trunzo;
    - (c) Dismissal of the above-captioned action with prejudice upon approval of the settlement by the Grafton County Probate Court; and
    - (d) Without admission or finding of any liability or wrongdoing, Special Administrator Thomas Trunzo will resign as Special Administrator upon approval of this settlement by the Grafton

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<sup>3</sup> No notice, joinder or other service was entered in Superior Court for Mr. Trunzo or the other heirs. The suit was brought by Mr. Decato on behalf of the Judge of Grafton County while he also represented Wayne Shambo, one of the heirs, in the Probate matter. The only parties of record were the Court and the insurance company.

County Probate Court and to waive any claim to fees incurred in his administration of the Estate of Wanda Shambo.

20. Mr. Decato signed the settlement agreement as Attorney for “Plaintiff Judge of Grafton Probate Court” and filed an unsigned Motion to Approve Settlement Agreement on April 29, 2022. On May 2, 2022, the Court approved the settlement in the Ohio Causality case.<sup>4</sup>
21. On May 13, 2022, the Court issued a bond discharge and Mr. Trunzo was no longer required to hold a surety bond.
22. On May 23, 2022, Mr. Trunzo filed a Motion for Reconsideration of the order approving the settlement agreement, stating that beneficiaries Rickie and Louise wished to be heard, and arguing that Mr. Decato had a conflict of interest because he had brought suit in the name of the probate judge while representing Wayne Shambo.
23. On July 22, 2022, Mr. Hayes was appointed as the successor special administrator to the Estate.
24. In relevant part, the Court’s July 22, 2022 order stated:

Before the court was a motion to reconsider, which was filed by the former administrator of the estate, Attorney Trunzo; and Wayne Shambo’s objection to that motion as well as a request for attorney’s fees. At the start of the hearing, Attorney Trunzo withdrew his motion to reconsider and moved for the appointment of a new administrator. He maintained, however, that Ricky Shambo and Louise Shambo Morton were inadequately served notice of the mediation and the subsequent agreement. Attorney Decato argued that Attorney Trunzo had no standing to file the motion to reconsider because he was no longer the special administrator of the estate; furthermore, Attorney Trunzo hadn’t filed an appearance to represent any of the other heirs in the matter. Thus, according to Attorney Decato, Attorney Trunzo is liable for attorney’s fees because he filed a frivolous motion.

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<sup>4</sup> Mr. Trunzo later paid the settlement to indemnify the bond including all legal fees incurred by counsel totaling \$63,000.

On April 12, 2022, Wayne Shambo and the bond company entered mediation in the *Judge of Probate Grafton County v. The Ohio Casualty Insurance Company*. The parties subsequently issued a statement of understanding, stating that the bond company would pay \$42,000.00 to the estate under the following conditions: (1) the settlement is approved by the court; (2) the court issues an entry of full discharge/release of the administrator and Ohio Casualty Insurance Company as surety regarding all claims *In re Wanda Shambo*, dismissal of the action with prejudice, and Attorney Trunzo's resignation as administrator. On May 13, 2022, the court approved the settlement agreement. All parties were cc'd in the court's ruling.

25. With respect to the New Administrator the Court found:

The court agrees with Attorney Trunzo that a new administrator is needed; and, because the approval of the settlement agreement removed him as the administrator and he is no longer bonded, the court acknowledges that an appointment must happen quickly. Therefore, this court hereby appoints Patrick Hayes Esq. as special administrator of the estate of Wanda Shambo.

26. With respect to the issue of attorney's fees, the Court awarded attorney's fees to Mr. Decato. The Court stated in relevant part:

While New Hampshire law holds that parties are generally responsible for their own attorney's fees, there are exceptions to that edict noted in subsequent case law. *See Glick v. Naess*, 143 N.H. 172, 175 (1998); *Kuken v. Genualdo*, 145 N.H. 1, 3 (2002). The New Hampshire Supreme Court has held that bad faith claims require a level of frivolity that demonstrate a lack of 'any reasonable basis in facts provable by the evidence' in court-filed motions. *Kuken*, 145 N.H. at 3.

Attorney Trunzo, when withdrawing his motion to reconsider, acknowledged that it was 'in-artfully drafted.' He addressed the court as the 'former administrator' at the beginning of this proceeding, and therefore acknowledged that he lacked standing to file it. This implies that he was aware that the motion was filed improperly; that it was filed with the intention of representing parties for whom he had not filed an appearance, and that doing so constituted unprofessional frivolity.

Therefore, the court concurs with Attorney Decato's argument and hereby grants attorney's fees. Attorney Decato may file an affidavit regarding fees within 30 days.

27. On July 26, 2022, the Court issued another discharge of Mr. Trunzo's bond.
28. Mr. Trunzo filed a Motion to Clarify, to Vacate and to Recuse on August 5, 2022, which was denied by the Court by Order dated August 26, 2022.
29. On August 26, 2022, Mr. Decato filed an affidavit of attorney's fees totaling \$1,610.50. The Court approved the attorney's fees on September 22, 2022.
30. On September 22, 2022, the Court also issued an order directing Mr. Trunzo to "provide his file in the above referenced case to the special administrator no later than October 5, 2022."
31. Mr. Trunzo did not provide his file to Mr. Hayes immediately.
32. Mr. Trunzo did not pay Mr. Decato's attorney's fees immediately because he had filed a Motion for Reconsideration of the July 22, 2022 order and eventually an appeal to the New Hampshire Supreme Court.
33. On December 22, 2022, Mr. Hayes filed a Motion for Instructions, stating: "[t]he undersigned has attempted numerous times to contact Attorney Trunzo to transmit the files but has received no response to date."
34. On December 27, 2022, Mr. Trunzo appealed the alleged conflict of interest issue that he had raised in pleadings to the New Hampshire Supreme Court.
35. On February 22, 2023, the Supreme Court dismissed the appeal as untimely (due to successive Motions to Reconsider).<sup>5</sup>
36. On January 25, 2023, Mr. Trunzo issued check #1220, utilizing the Estate checkbook, in the amount of \$1,635.66 to the Town of Canaan for real estate taxes for the property in the name of the Estate of Wanda Shambo.

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<sup>5</sup> The Court did not rule on the substantive issue of the appeal.

37. Check #1220 accounted for taxes due in July 2022 and in December 2022. Mr. Trunzo signed the check in his personal capacity rather than in his representative capacity. Mr. Trunzo also personally paid \$59.38 in interest and penalties.
38. Mr. Trunzo has since explained that he made the payment because he was concerned that the taxes were overdue and needed to be paid to avoid the Estate incurring further interest and penalties. However, at that time Mr. Trunzo was not authorized by the Court to make this payment.
39. On March 10, 2023, the Court issued an order to address Mr. Trunzo's failure to turn the file over to Mr. Hayes. The Court issued a "second" order directing Mr. Trunzo to "provide his file . . . to the special administrator."
40. The Court also ordered:

The Court shall schedule a Show Cause hearing in this matter, where Attorney Trunzo will be required to attend in person, to explain why he has not yet turned over his file. The Court will consider what sanctions may be appropriate for Attorney Trunzo's continued failure to turn over the file.
41. On March 23, 2023, Mr. Decato filed a Motion to Hold Attorney Thomas H. Trunzo, Jr. in Indirect Criminal Contempt of Court for Mr. Trunzo's contempt of the Court's July 22, 2022 order (to pay Mr. Decato's attorney's fees); the September 22, 2022 order (to turn over his file to Mr. Hayes by October 5, 2022, to include the Estate's checkbook); and his unauthorized signing of an Estate check in the amount of \$1,635.66 which belonged to the Estate under the control of Mr. Hayes. Mr. Decato also requested an award of attorney's fees for filing the Motion.
42. On April 17, 2023, Mr. Trunzo paid \$63,000 to the Elizer Law Group (the representative for Ohio Casualty) from his personal retirement account to indemnify the bond and to pay bond counsel's legal fees.<sup>[6]</sup>

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<sup>6</sup> Mr. Trunzo's insurance carrier declined coverage.

43. Mr. Decato filed a supporting memorandum on April 29, 2023 in support of his Motion to hold Mr. Trunzo in indirect criminal contempt.
44. A hearing went forward on May 4, 2023. The Court reviewed the issues in Mr. Decato's March 27, 2023 Motion as well as Mr. Hayes' Motion for Instructions and Show Cause with regard to Mr. Trunzo's failure to turn over the file.
45. At the time of the May 4, 2023 hearing, Mr. Trunzo had turned over the complete file to Mr. Hayes; Mr. Hayes had filed an accounting and all involved reached an agreement to leave the record open to allow time for Mr. Trunzo to file a Memo in response to Mr. Decato's March 27, 2023 Motion.
46. On May 18, 2022, Mr. Trunzo filed a "Response to Motion to Hold Attorney Thomas H. Trunzo in Indirect Criminal Contempt of Court." In the Response, Mr. Trunzo explained the resistance and lack of cooperation he had met in administering the estate. He also stated:

I have taken no fees during the period of my appointment for this case and am fully liable for the complete cost of indemnification for the payment on the bond. Every accounting that I filed indicated that I would receive payment for services upon the eventual sale of the Shambo residence which never happened.<sup>7</sup>

47. On June 16, 2023, the Court issued an Order after a May 4, 2023 Show Cause hearing. The Court noted:

At issue before the Court was the special administrator's motion for instructions, the Court's Show Cause hearing to address the transfer of the file between the former and current administrator. At the time of the hearing, these issues had resolved, and no further orders are necessary.

However, prior to the hearing Wayne Shambo had filed a Motion seeking to find Attorney Trunzo in Indirect Criminal Contempt. The Court, as is explained in greater detail below, declines to find Attorney Trunzo in Indirect Criminal Contempt. Lastly, the Court Orders Attorney Trunzo to comply with an earlier order to pay Attorney Decato's attorney's fees.

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<sup>7</sup>All five accountings Mr. Trunzo filed with the Court were approved.

48. In its June 16, 2023 order the Court found in relevant part:

At the hearing, Attorney Trunzo provided the following as a justification for his delay:

- Confusion over how this case has proceeded.
  - He explained that the Court had issued an order that he had no standing, and that his filing [for reconsideration] was frivolous. Attorney Trunzo stated that he was confused by the finding that he had no standing and whether this meant he had any ability to respond to motions. He said ‘I was not sure my legal status.’
  - He felt that Attorney Decato had a conflict of interest because he represented the Probate Judge in Superior Court in a suit on the bond, and Wayne Shambo in this proceeding.
- Personal health issues. He did not wish to provide proof of his health issues, because he felt it was a personal matter. But he had medication changes and other health issues.
- Family issues. He was caring for his mother, he had two disabled brothers, and he was providing childcare for his daughter who is a single mother.
- In summary, he stated that there was a ‘combination of overwhelming circumstances’ in the case and his personal life, and that ‘I was not able to fulfill that obligation in a timely way, and I agree to that.’

Attorney Trunzo provided the following as mitigating factors despite his delay:

- He admits the Court order for him to turn over the file was proper. He admits that he delayed compliance. He does not disagree with the timeline represented to the court by Attorneys Hayes and Decato.
- He did give Attorney Hayes enough information to complete the accounting earlier on in the case, even though he had not finished turning over the complete file.

49. The Court also found:

In summary, Mr. Shambo asks the Court to hold Attorney Trunzo in contempt for violating court orders as described above. Attorney Trunzo responds, as described above, that a ‘combination of

overwhelming circumstances' in the case and his personal life resulted in his delay in turning over the file, even though he acknowledges that he should have. With respect to the payment of the court-ordered attorney's fees, Attorney Trunzo does not directly address why he has failed to comply with this order, other than reference to general hardships in his life. He asks the Court to vacate the order and relieve him of his obligation to pay the fees. With respect to the payment of real estate taxes for the estate after having been removed from his official capacity, he stated at the hearing he felt an obligation at that time to ensure that debt was paid. Attorney Hayes, on behalf of the estate, took no position with respect to a finding of Indirect Criminal Contempt for these matters. All parties agreed that no finding of civil contempt was needed at this time.

50. The Court concluded, in its June 16, 2023 order:

After reviewing the evidence and record before the Court, the Court declines to exercise its discretionary powers to pursue charges of Indirect Criminal Contempt. At this time, the file has been turned over to the current administrator and an accounting has been filed. The administrator of the Estate is not seeking any contempt orders. Additionally, Attorney Trunzo has now accepted some degree of responsibility for his delays, and he has provided sufficient explanation for the delays that, while it does not excuse his behavior, it is sufficiently convincing to avoid a finding of contempt given the standards set forth above.

Lastly, the Court declines to abate, defer or vacate the order for Attorney Trunzo to pay attorney fees to Attorney Decato. Attorney Trunzo is ordered to pay the attorney's fees pursuant to the Court's July 22, 2022 Order, within 30 days from the date of this order. Given the passage of time, and the history of this case, the Court will schedule a review hearing on this matter in approximately 30 days. Attorney Hayes does not need to be present at the review hearing. If Attorney Decato informs the Court prior to the review hearing that he has been paid his attorney fees, the Court will then cancel the hearing. At the review hearing, if Attorney Trunzo has not complied with this order, the Court will consider what sanctions may be appropriate for Attorney Trunzo's continued failure to comply.

51. Mr. Trunzo paid Mr. Decato's attorneys fees in the amount of \$1,610.50 on July 18, 2023.

52. As set forth above, Mr. Trunzo was confused with some of the Court orders; specifically, the finding that he had no standing. He also waited on decisions with regard to the Motion for Reconsideration and the Supreme Court order because he believed Mr. Decato had a conflict of interest.
53. Beginning in 2019, Mr. Trunzo also faced a number of personal difficulties. He had changes to his anti-depressant medication which he indicates had an effect on his memory and perception (he is no longer on that medication). He traveled frequently to New Jersey to assist two of his disabled brothers and moved his 100 year-old mother to an assisted-living facility in New Jersey followed by bringing her to an assisted living facility in Vermont. He supported another brother in Pennsylvania who suffers from schizophrenia. His older brother, his younger brother and his mother passed away in August 2021, August 2023 and October 2023, respectively. Because none of these brothers had spouses, partners or children, Mr. Trunzo was the sole family member who could oversee their care.
54. As set forth further below, Mr. Trunzo has been working with New Hampshire Lawyer's Assistance Program ("LAP"), and has agreed to be monitored through LAP to address some of the underlying mental health challenges and stress management issues that contributed to his misconduct and has voluntarily reduced his caseload to more manageable levels.

### **B. Disciplinary Rules Violated**

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

#### **Rule 3.4: Fairness to Opposing Party and Counsel**

56. The facts set forth above are incorporated by reference.
57. Rule 3.4 states, in pertinent part, as follows:

A lawyer shall not:

- (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

58. Mr. Trunzo knew he was obligated to comply with the Court's October 11, 2017 order so that the inventory of the Estate could be completed. However, he failed to accomplish those tasks, resulting in a delay and contributing to the devaluation of the estate.
59. Mr. Trunzo knew he was obligated to comply with the Court's September 22, 2022 order to turn over his file and the estate checkbook to Mr. Hayes by the October 5, 2022 deadline. Mr. Trunzo failed to comply with this order in a timely fashion.
60. Mr. Trunzo knew he was obligated to comply with the Court's March 10, 2023 order to turn over his file and the estate checkbook to Mr. Hayes. Mr. Trunzo failed to comply with this order in a timely fashion.
61. Mr. Trunzo knew that he was ordered by the Court on September 22, 2022 to pay Mr. Decato's attorney fees in the amount of \$1,610.50. Mr. Trunzo failed to comply with this order in a timely fashion.
62. Mr. Trunzo knew he had been removed as administrator at the time he paid the real estate taxes in January 2023. However, Mr. Trunzo paid the real estate taxes without authority.
63. The parties agree that the foregoing constitutes violations of Rule 3.4(c).

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

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

**C. Recommended Sanction**

65. The Attorney Discipline Office and Mr. Trunzo jointly agree that a one-year suspension stayed for one year with conditions is the appropriate sanction in this matter. This sanction would serve the purposes of attorney discipline.
66. Both case law and the American Bar Association's *Standards for Imposing Lawyer Sanctions* (2005) ("*Standards*") support this sanction.

67. 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).
68. 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.
69. 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”).
70. Under the first prong of the analysis, Mr. Trunzo violated duties owed to the legal system when he failed to comply with court orders. *See Standards* § 6.2.
71. With respect to Mr. Trunzo’s mental state under the second prong of the sanction analysis, the parties agree that Mr. Trunzo’s mental state 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 *Standards* define “knowledge” as a “conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.” *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.”).

72. Mr. Trunzo acted knowingly, as that state of mind is an essential element for a Rule 3.4(c) violation.
73. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Mr. Trunzo’s misconduct.
74. Mr. Trunzo’s conduct caused injury. Specifically, it delayed the administration of the Estate and contributed to the devaluation of the Estate. In addition, Mr. Trunzo’s conduct caused harm to the legal system and the integrity of the profession through his failure to timely comply with Court orders.
75. Mr. Trunzo’s 3.4 rule violation implicates Section 6.2 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 expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

- 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.
- 6.22 **Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.**
- 6.23 [Public censure] is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

6.24 [Reprimand] is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.

(emphasis added).

76. Mr. Trunzo's conduct in this matter, when considered under *Standard 6.22*, would call for a baseline sanction of a suspension.
77. The baseline sanction must be considered in light of any aggravating and mitigating factors. *E.g., Conner's Case*, 158 N.H. at 303.
78. In this case there is one aggravating factor present, Mr. Trunzo's substantial experience in the practice of law. *See Standards § 9.22*.
79. Mitigating factors include an absence of a prior disciplinary record, absence of a dishonest or selfish motive, personal problems, full and free disclosure to the ADO and the imposition of other penalties (Mr. Trunzo personally paid all of the settlement on the bond). *See Standards § 9.32*.
80. Mr. Trunzo faced numerous difficulties and lack of cooperation from the parties that slowed his compliance with the October 11, 2017 order, including threats from some of the parties involved. Mr. Trunzo now understands that there were steps he could have taken to handle these issues differently. Mr. Trunzo also never received compensation for his role as Special Administrator of the Estate.
81. During the 2019-2023 time-period, Mr. Trunzo was also dealing with numerous health issues including his own health problems and changes to medication; frequent trips to New Jersey to oversee care for his elderly mother; overseeing care for his disabled adult brother; administering another brother's estate and helping to care for a grandchild. Mr. Trunzo has also been available to provide support for his youngest brother who suffers from [REDACTED]
82. Mr. Trunzo has sought counseling and has regularly been in contact with the Executive Director of the Lawyers' Assistance Program since September 2023 and has agreed to enter into a formal monitoring program as of the date of this

Stipulation. Mr. Trunzo has voluntarily made efforts to significantly wind down his practice to a more manageable caseload, particularly to also address working as a solo practitioner without support staff.

83. The parties agree that given the baseline sanction, and consideration of aggravating and mitigating circumstances, the parties agree that a one-year suspension, stayed with conditions serves the purposes of discipline and is an appropriate sanction in this case.
84. Should Mr. Trunzo violate the conditions of this Agreement, which are aimed at preventing future misconduct and addressing underlying mental and physical health challenges, a one-year suspension would be imposed. A suspension of that length would also trigger the full reinstatement requirements under Rule 37(14)(b).

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

85. Mr. Trunzo agrees to comply with the following conditions for one year, which shall begin on the date the Professional Conduct Committee accepts this Stipulation:
  - a. Mr. Trunzo agrees to comply with the New Hampshire Lawyers Assistance Program Health & Recovery Monitoring Agreement (“Agreement”) (attached hereto as Exhibit A) which he entered into on August 9, 2024, with a projected completion date of August 9, 2025. In short, the Agreement requires that Mr. Trunzo meet monthly with the Director of NHLAP; submit a monthly self-report; attend individual therapy and participate in routine health-care visits and medication management.
  - b. Respondent shall pay the expenses incurred by the Professional Conduct Committee in connection with this investigation and prosecution, and if unable to pay in lump sum, shall agree to some form of payment plan with the PCC within 60 days of receiving an invoice from the PCC.

- c. Respondent will engage in no professional misconduct during the one year period.
86. If it is alleged that Mr. Trunzo violated any of the conditions enumerated at Paragraph 85 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 85 have been violated. If it determines that a condition has been violated, the Committee shall lift the stay and impose a one-year 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 85 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 85 has been violated.
  - c. If a Hearing Panel determines that a condition has been violated, the Panel shall lift the stay and impose a one-year 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.
87. If a new grievance or referral is filed against Mr. Trunzo during the one-year period of the stay, thus implicating the condition at Paragraph 85, 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 one-year 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 85 have been met, Mr. Trunzo 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, Mr. Trunzo 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**

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

#### **F. Effect of Stipulation**

89. Mr. Trunzo 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).
90. Mr. Trunzo acknowledges that the admissions of misconduct and the proposed disposition contained in this Stipulation are freely, knowingly, and voluntarily

submitted; that he is not entering this Stipulation as a result of any threats, coercion, or duress, or of any promises or inducements not set forth in the Stipulation.


91. Mr. Trunzo understands that he has a right to obtain counsel regarding this Stipulation and, that he is fully aware of the consequences of the Stipulation.
92. Mr. Trunzo knowingly and intelligently waives his right to a hearing.

Respectfully submitted,

Dated: \_\_\_\_\_ 2024

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Thomas H. Trunzo, Jr., Esquire  
Respondent

Dated: 8/15 \_\_\_\_\_ 2024

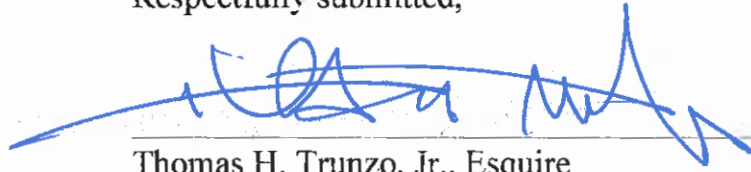
  
\_\_\_\_\_  
Elizabeth M. Murphy, Esquire  
Assistant Disciplinary Counsel

submitted; that he is not entering this Stipulation as a result of any threats, coercion, or duress, or of any promises or inducements not set forth in the Stipulation.

- 91. Mr. Trunzo understands that he has a right to obtain counsel regarding this Stipulation and, that he is fully aware of the consequences of the Stipulation.
- 92. Mr. Trunzo knowingly and intelligently waives his right to a hearing.

Respectfully submitted,

Dated: Aug 14, 2024



Thomas H. Trunzo, Jr., Esquire  
Respondent

Dated: \_\_\_\_\_ 2024

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Elizabeth M. Murphy, Esquire  
Assistant Disciplinary Counsel