

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

O R D E R

LD-2024-0003, In the Matter of David C. Newton, Esquire

On January 31, 2024, the Attorney Discipline Office (ADO) filed a certified copy of the order of term suspension issued by the Massachusetts Supreme Judicial Court for Suffolk County (Massachusetts SJC), which suspended the respondent, Attorney David C. Newton, from the practice of law for a period of two years. With that filing, the ADO set forth its position that Attorney Newton's "misconduct does not warrant the imposition of identical discipline in New Hampshire" and that Attorney Newton should instead be disbarred in New Hampshire.

The Massachusetts SJC issued the two-year suspension based on the factual findings and recommendation of the Massachusetts Board of Bar Overseers (BBO). The BBO found that Attorney Newton misappropriated more than \$20,000 from his law firm and knowingly lied to bar counsel during the course of the disciplinary investigation. The BBO determined that Attorney Newton violated Massachusetts Rules of Professional Conduct 8.1(a) and (b) and 8.4(c), (d), (g), and (h).

Supreme Court Rule 37(12)(d) authorizes this court to impose final discipline identical or substantially similar to the discipline imposed by another jurisdiction unless the court finds, among other possible grounds, that the "misconduct established warrants substantially different discipline in this State." On February 21, 2024, this court issued an order in accordance with Supreme Court Rule 37(12)(d) providing Attorney Newton an opportunity to advise the court of his position as to whether the court should impose discipline identical or substantially similar to that imposed by the Massachusetts SJC. Given the nature of Attorney Newton's misconduct and the discipline imposed in Massachusetts, this court also entered a temporary order of suspension pending the imposition of final discipline. See Supreme Court Rule 37(12)(b) ("Upon receipt of a certified copy of an order demonstrating that an attorney admitted to practice in this State has been disciplined in another jurisdiction, the court may enter a temporary order imposing the identical or substantially similar discipline or, in its discretion, suspending the attorney pending the imposition of final discipline."). Each order was sent to Attorney Newton at an address that he had provided to the New Hampshire Bar Association. See Supreme Court Rule 42E(c). Attorney Newton did not respond to either order.

After review of the record of the Massachusetts SJC discipline, including the BBO's discussion of aggravating and mitigating factors, this court concluded that Attorney Newton's misconduct would warrant substantially more serious discipline than a two-year suspension in New Hampshire. Accordingly, on June 25, 2024, the matter was referred to the Professional Conduct Committee (PCC) for its recommendation regarding the discipline to be imposed. See Supreme Court Rule 37(12)(e).

Although the PCC provided him an opportunity to do so, Attorney Newton did not file a memorandum or otherwise participate in the PCC proceedings. The PCC determined that his underlying conduct "violated New Hampshire Rules of Professional Conduct 8.1(a) (false statements), 8.1(b) (responses to the disciplinary authority), and 8.4(c) (dishonesty and fraud)" and that his failure to respond to orders of this court and of the PCC "constitut[ed] independent violations of Rules 3.4(c) [knowing disobedience to an obligation under the rules of a tribunal] and 8.1(b)." The PCC concluded that his "theft and dishonesty are serious violations that warrant disbarment under New Hampshire precedent." Accordingly, the PCC has recommended disbarment of Attorney Newton in New Hampshire.

Upon receiving the PCC's recommendation, this court issued an order on September 18, 2024, requiring Attorney Newton to identify any legal or factual issues relating to the PCC's recommendation that he wished the court to review. Attorney Newton did not respond to that order.

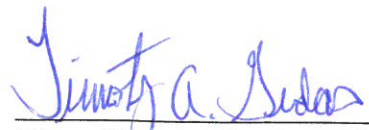
The court has reviewed the PCC's record and its recommendation for disbarment. In light of the seriousness of Attorney Newton's misconduct, which includes violations of New Hampshire Rules of Professional Conduct 3.4(c), 8.1(a), 8.1(b), and 8.4(c), the court agrees with the PCC's recommendation and concludes that disbarment is the appropriate sanction.

THEREFORE, the court orders that David C. Newton be disbarred from the practice of law in New Hampshire. He is hereby assessed all costs and expenses incurred by the attorney discipline system in the investigation and prosecution of the matter.

MacDonald, C.J., and Bassett, Donovan, and Countway, JJ., concurred.

DATE: March 7, 2025

ATTEST:



Timothy A. Gudas, Clerk

Distribution:
Professional Conduct Committee
Mark P. Cornell, Esquire
David C. Newton
File