

NEW HAMPSHIRE SUPREME COURT
PROFESSIONAL CONDUCT COMMITTEE

Burns, Christopher R.

advs.

Attorney Discipline Office

#24-014

ORDER

On December 16, 2025, the Professional Conduct Committee deliberated the Hearing Panel's recommendation that Attorney Burns be disbarred. The Committee scheduled oral argument, at Attorney Burns's request, and provided deadlines responsive to Attorney Burns's request for an opportunity to file a pleading; however, he did not file a pleading or a motion to extend his deadline by the due date.

Attorney Burns spent his time before this Committee, as he had at the sanction hearing before the Hearing Panel, contesting the facts underlying the Notice of Charges, despite the fact that, by failing to respond to the Notice of Charges, all facts are deemed admitted. Attorney Burns maintained that he had proof that those facts were incorrect – proof that he had never shared with the Attorney Discipline Office nor sought leave to present in any forum of the attorney discipline process.

The Committee finds the Hearing Panel report, dated September 29, 2025, to be well-reasoned and supported. The Committee adopts the Hearing Panel's analysis and conclusions.

Attorney Burns committed serious misconduct. He immediately began converting a client's funds for his own uses without ever earning it, depleting the funds in nine days. He failed to represent the client in any meaningful way, let alone with a minimum amount of competence or diligence, and then submitted falsely notarized interrogatories to opposing counsel, lied to his client over a period of months, caused a default judgment with costs to be entered against the client, and failed to respond to the disciplinary authority. Attorney Burns lied to the Committee and showed no remorse.

Disbarment is the appropriate sanction. There are no mitigating factors to temper this baseline sanction, only aggravating factors. The Committee is so concerned about the potential impact of Attorney Burns's failure to follow the Rules of Professional Conduct on his extremely vulnerable clients that it recommends to the Attorney Discipline Office that it immediately

pursue interim suspension under Supreme Court Rule 37(9-A)(a) or 37(16)(d) while the Supreme Court considers the matter.

Date: December 18, 2025

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

cc: Sara S. Greene, Disciplinary Counsel (via Electronic Email)
Christopher R. Burns, Esq. (via Electronic Email – burnslegalservices603@gmail.com and
(U.S. Mail – Burns Legal Services PLLC, PO Box 621, Portsmouth, NH
03802-0621)

New Hampshire Supreme Court
Hearings Committee

Burns, Christopher R.

advs.

Attorney Discipline Office
#24-014

Hearing Panel Report

A complaint was referred to this Panel pursuant to New Hampshire Supreme Court Rule 37A(III)(b)(4) on. The following Panel was appointed:

Hon. Peter H. Fauver, Chair
Andrew J. Piela, Esq., Reporter
Mona Movafaghi, Esq.
Robert Dabrowski
Elaine Holden

A hearing was held on August 8, 2025, on sanction. Attorney Burns and Jeffrey Koss (complainant) were in attendance at the hearing and spoke as part of the process.

1. Mr. Burns is an attorney licensed to practice law in New Hampshire. Mr. Burns was admitted to practice on May 29, 2002.
2. Mr. Burns was also admitted to practice law in Louisiana on March 29, 2005. He is currently on administrative suspension status for the Louisiana Bar for noncompliance with trust account registration, unpaid bar dues, and noncompliance with CLE requirements.

3. A Notice of Charges (NOC) was issued in this matter on December 6th, 2024 to Burns Legal Services PLLC, PO Box 621, Portsmouth, NH 03802
4. At all times material to this proceeding, Mr. Burns operated his law office at this address. Mr. Burns did not file an answer to the charges. Because of the default in failing to file an answer Mr. Burns is deemed to have admitted the factual and legal allegations set forth in the Notice of Charges. Sup Ct. Rule 37A (111)(b)(3)(A). The facts as admitted are as follows.
5. Jeffrey Koss (“Mr. Koss”) filed a small claims action against Adams Contracting, LLC (“Defendant”) on July 14, 2023, alleging defective work on renovations at a building owned by Mr. Koss in Greenland, New Hampshire.
6. Adams Contracting moved to transfer the case to Rockingham Superior Court (“ the Court”) via pleading filed by its Attorney, Jack White (“Mr. White”), dated October 17, 2023. *Jeffrey Koss v. Adams Family Contracting LLC*, Case No. 218-2023-CV-01257, Rockingham Superior Court (“the Action”).
7. On October 30, 2023, Mr. Koss met with Mr. Burns at Mr. Burns’ law office regarding the Action.
8. Earlier that day, Mr. Koss emailed to Mr. Burns the few pleadings that had been filed to date in the Action, as well as several other documents totaling 30 pages.

9. Mr. Koss retained Mr. Burns to represent him in the Action then pending in Rockingham Superior Court.
10. Mr. Koss paid Mr. Burns a \$3,000 retainer via check dated October 27, 2023.
11. Mr. Koss did not sign a fee agreement.
12. Mr. Burns deposited the retainer into his client trust account (“IOLTA”) ending in 6134 on October 31, 2023.
13. Prior to this deposit on October 31, 2023, Mr. Burns’ IOLTA balance was negative, *i.e.*-\$200.
14. Therefore, the only client funds in the IOLTA were Mr. Koss’ funds.
15. Mr. Burns disbursed the entirety of the \$3,000 retainer to himself within 9 days of receipt, as follows:
 - a. Mr. Burns wrote check no. 127 dated October 27, 2023 payable to himself for \$400 which cleared on October 31, 2023. This check had no client identification noted and initially “bounced” on October 27, 2023 due to the -\$200 balance in the IOLTA.
 - b. On November 3, 2023, Mr. Burns withdrew \$1,000 in cash from the IOLTA and deposited it the same day into his operating account ending in 6193.
 - c. On November 9, 2023, Mr. Burns withdrew \$1,700 in cash and deposited it in the same day into his operating account ending in 6193.
16. Between the date that Mr. Burns deposited the Koss retainer, and November 9, 2023, when he had exhausted it, Mr. Burns made no other deposits into the IOLTA.
17. As of November 9, 2023, Mr. Burns had not filed an appearance or a pleading in Mr. Koss’ matter.

18. As of November 9, 2023, Mr. Burns had not earned all of the Koss retainer.
19. On or around November 17, 2023, Mr. Burns e-filed an appearance on behalf of Mr. Koss.
20. This was the only pleading Mr. Burns filed on behalf of Mr. Koss.
21. By letter dated December 20, 2023 to Mr. Burns, Mr. White, counsel for the Defendant, served upon Mr. Burns the Defendants' Interrogatories ("Interrogatories") and Defendant's First Request for Production of Documents ("RFPs") containing the 30 day deadline for responses per Rule 23(i) of the Rules of Civil Procedure.
22. Mr. Burns did not forward these Interrogatories and RFPs ("the discovery requests") to Mr. Koss in a timely fashion.
23. Over a month later, on January 24, 2024, Mr. White, via an email from his paralegal, Sandra Dickens ("Ms. Dickens") sent a courtesy letter reminding Mr. Burns that Mr. Koss's discovery responses "are now due" and requesting, "[p]lease advise when we might expect these."
24. Mr. Burns responded the same day to Ms. Dickens via email, stating "Thank you. I'll touch base with my client and get a more formal response."
25. Mr. Burns had not, as of January 24, 2024, informed his client that any discovery had been propounded by the Defendant.
26. Mr. Burns made no effort to forward the discovery requests to his client from December 20, 2023 until February 9, 2024.

27. Mr. Burns finally forwarded only part of the discovery request to Mr. Koss, on February 9, 2024.
28. Mr. Burns was prompted to forward the discovery to his client because on that date, Mr. White filed a Motion for Conditional Default.
29. Mr. Burns never forwarded to his client the RFPs propounded by the Defendant.
30. On February 9, 2024 at 1:28 pm, Mr. White filed Defendant's Motion for Conditional Default due to Mr. Koss's failure to comply with the discovery requests.
31. Mr. Burns was served this Motion electronically.
32. That same day, at 1:50 pm, Mr. Burns sent an email to Mr. Koss attaching a copy of the Interrogatories, stating:

Jeff,

Find attached Interrogatories propounded by the Respondent. I reviewed them before sending them to you. There are only 11 questions and seem pretty basic. They look like you'll be able to answer them pretty quickly. Some of the questions ask about your construction experience, which makes me wonder if their theory of the case is, you're not qualified to judge the quality of his work. Work on some draft answers. Don't worry how rough they are. I will review them and polish them before sending to the other attorney. Let's get together Wednesday (2/14/2024 or Thursday (2/15/24) to finalize the answers and work on our own interrogatories.

Thanks, Chris

33. The copy of Interrogatories Mr. Burns attached to his email to Mr. Koss did not contain the cover letter from Mr. White dated December 20, 2023.

34. The copy of the Interrogatories Mr. Burns attached to his email to Mr. Koss did not contain the signature (verification) or notary clause pages.
35. In his February 9, 2024 email to Mr. Koss, Mr. Burns did not disclose that in fact the Interrogatories were already overdue, that a Motion for Conditional Default was pending, and that time was of the essence.
36. Mr. Burns also did not attach a copy of the RFPs in his email to Mr. Koss, although those responses were also overdue.
37. At 1:53 pm, Mr. Burns then sent a text message to Mr. Koss, stating, “I just email (sic) you interrogatories received from the other attorney. They look pretty basic. Let me know if you don’t receive them.”
38. Mr. Koss responded acknowledging receipt, and after a further exchange of texts, Mr. Burns requested that Mr. Koss, “keep a list of questions you want to ask him and documents you want him to produce.”
39. On February 12, 2024, the Court sent a Notice to all parties that a conditional default had entered against Mr. Koss for failing to answer Interrogatories and/or RFPs.
40. Although Mr. Burns had received electronic notice that the Court had entered conditional default, he did not inform Mr. Koss of this development.
41. On February 20, 2024, Mr. Koss sent an email to Mr. Burns stating he was still working on his answers to the Interrogatories.

42. Mr. Burns responded, stating, "Can you send me some drafts tomorrow? If it's too voluminous I'll object. I'm going to Orlando next week with my daughter for school break. I just want to knock these out before I leave."
43. Mr. Burns, while stating he wanted responses from his client to "knock [them] out before [he left]" to travel with his daughter, again failed to inform his client that in fact the discovery responses were far overdue and an order of conditional default had entered.
44. On February 21, 2024, Mr. Koss emailed to Mr. Burns his draft of the answers to the interrogatories, along with his own interrogatories he wanted propounded to the Defendant.
45. Mr. Koss's draft answers of Interrogatories were typed on separate sheets of paper with numbered paragraphs that corresponded to the Interrogatory paragraphs.
46. On February 23, 2024, Mr. Burns responded via email to Mr. Koss, attaching a slightly revised version of Mr. Koss's draft of the answers to Interrogatories.
47. The notary page contained in Mr. Burns' revised version did not contain any notary information and the verification clause (signature page) was not signed. In the February 23, 2024 email, Mr. Burns stated:

Jeff,

I reworked a couple of the interrogatory answers and threw in a few objections. They're ready to go to the other side. I just need your signature on what would be page ten if the pages were numbered. Also we need a notary to fill out page eleven. Any bank you do business with should have a

notary. If you sign in front of a notary and return pages 10 and 11. I can finalize the responses.

Thanks,

Chris Burns

48. Again, Mr. Burns did not disclose to his client on February 23, 2024 any urgency in finalizing the overdue discovery responses nor the fact that conditional default had been entered.
49. Mr. Koss responded to this email on February 26, 2024, explaining, "I'll take the attached document to my bank to get it notarized. I'll be back in town Thursday so I'll go there Friday."
50. Mr. Burns did not respond to this email.
51. Unbeknownst to Mr. Koss, Mr. Burns had already emailed answers to the Interrogatories to Mr. White on February 23, 2024, stating:

Attorney White,

Here are electronic responses to the Interrogatories. I didn't have enough room to place the answers under the interrogatory, so I just put them on a separate answer sheet. As for the documents, they may exceed my ability to email them. Do you use dropbox or another delivery service? I'm also happy to just put them on a thumb drive and (sic) send that to you if you prefer.

52. There was no need for a thumb drive because the total documents in Mr. Burns' possession were 30 pages provided by his client at the initial meeting.
53. Mr. Burns had no further documents responsive to the RFPs propounded by the Defendant because he never sent those RFPs to his client.

54. The verification and notary pages contained in the answers to interrogatories that Mr. Burns emailed to Mr. White on February 23, 2024 are false.
55. The verification page Mr. Burns sent to Mr. White on February 23, 2024 stated “I, Jeffrey Koss, on this 23rd day of February, 2024, hereby swear that the foregoing answers to interrogatories and requests for production of documents are true and accurate to the best of my knowledge, information and belief.”
56. The verification page purports to contain Mr. Koss’ e-signature.
57. Mr. Koss did not authorize his e-signature and had not verified his discovery responses as of February 23, 2024.
58. The Notary clause that Mr. Burns sent to Mr. White on February 23, 2024 is likewise false.
59. The Notary clause contained the electronic signature of J.P. Nadeau, attesting that Mr. Koss “personally appeared” before Mr. Nadeau making “oath that the responses to the foregoing First Set of Interrogatories are true and correct to the best of her (sic) knowledge and belief.”
60. Mr. Koss did not personally appear before J.P. Nadeau on February 23, 2024.
61. According to the New Hampshire Secretary of State, while J.P. Nadeau is an authorized notary in New Hampshire, he is not authorized to perform electronic notary services, *i.e.* “remote” notaries.

62. In New Hampshire, an individual must complete additional steps and certifications to be authorized to notarize signatures remotely.
63. After Mr. White received the February 23, 2024 email, he agreed that Mr. Burns could produce electronic documents requested in the RFPs on a thumb drive.
64. On March 4, 2024, after not receiving the thumb drive, Mr. White contacted Mr. Burns via email inquiring as to the “responsive documents to my document requests.”
65. Mr. Burns replied via email, promising to put the documents on a thumb drive and send them “in the next few days.”
66. On March 5, 2024, Mr. Koss emailed Mr. Burns, stating:
- Hi Chris,
- I have the documents notarized. I am heading to NYC for work until Thursday night. I can meet you Friday or take pics of the notarized documents and send them to you.
- Thanks,
- Jeff
67. Mr. Burns did not respond to his client’s email.
68. By March 5, 2024, Mr. Burns had already forwarded the interrogatory responses to Mr. White, with a false notarization and false verification.
69. Mr. Koss sent a follow up text on March 11, 2024, stating, “Hi Chris-I emailed you last week about getting my Rapunzel (sic) notarized. I’m back in town Wed evening I can drop it by later this week if you’re available.”
70. Mr. Burns simply replied, “ok”.

71. Again, Mr. Burns did not inform his client of the true and accurate status of the Action at this time.
72. Mr. Burns had still not responded to the RFPs, because he never forwarded them to his client, and had not sent any thumb drive to opposing counsel.
73. Mr. Koss was unaware that Mr. Burns had already emailed the interrogatory responses to Mr. White back on February 23, 2024 with the false notarization and verification.
74. On March 15, 2024, Mr. White sent an email to Mr. Burns, "I have not received the documents from you. Did you send them?"
75. Mr. Burns replied that he had been ill, that the thumb drive was at his office, and he would get the thumb drive to him "ASAP."
76. On March 25, 2024, Mr. Koss sent a text to Mr. Burns, stating, "Hi Chris - just checking in to see what the next steps are. Have you sent over my responses and our questions?"
77. By "our questions," Mr. Koss meant the interrogatories that he wished to propound on the Defendant that he emailed to Mr. Burns back on February 21, 2024.
78. Mr. Burns never prepared those interrogatories or served them on the Defendant.
79. Mr. Burns responded four days later, via text on March 29, 2024, "I'll call you back."

80. Mr. Koss responded, "Hi Chris-your voicemail is full. Just checking in to see the status of my case?"
81. Mr. Burns did not respond.
82. On April 3, 2024, Mr. White again contacted Mr. Burns via email inquiring about the thumb drive.
83. Mr. Burns did not respond.
84. On April 12, 2024, Ms. Dickens, paralegal to Mr. White, forwarded via email a letter from Mr. White, requesting that the thumb drive be forwarded to his office within seven (7) days.
85. When Mr. Burns once again failed to respond, Mr. White filed Defendant's Motion for Entry of Final Judgment along with a Taxation of Costs on April 19, 2024.
86. Mr. Burns was served a copy of this Motion electronically the same day.
87. Mr. Burns did not inform Mr. Koss that a Motion for Entry of Final Judgment had been entered.
88. Mr. Burns did not file an objection.
89. The Court granted the Motion on May 3, 2024, entering final judgment via notice dated May 6, 2024, and assessing costs to Mr. Koss.
90. Even after the Court entered final judgment, Mr. Burns continued to misrepresent to Mr. Koss the status of the case and work he performed.
91. On May 7, 2024, after over two months of no communication from Mr. Burns, Mr. Koss texted Mr. Burns, stating, "Morning Chris-what's the

status on my case? Have they sent over the responses yet? What's the time frame on this?"

92. Mr. Burns responded via text on May 8, 2024, stating "I'm in court all day but I'll get the file when I'm back in the office and get an update."
93. Mr. Burns did not timely provide that update.
94. On May 10, 2024, Mr. Koss texted Mr. Burns, "Hi Chris-I never hear back from you on the status of my case. Have they sent over the answers to our questions?"
95. By "our questions," Mr. Koss meant the interrogatories that he wanted Mr. Burns to propound on the Defendant.
96. On May 12, 2024, Mr. Burns responded to Mr. Koss via text, stating, "Sorry to interrupt the weekend. I got sick with a respiratory issue so we extended the deadlines. I'll check on their discovery when I get back to the office."
97. As of May 12, 2024, no deadlines had been extended either by opposing counsel or the court relative to Mr. Koss' discovery responses.
98. There were no deadlines for Mr. Burns to extend to the Defendant on Mr. Koss' behalf because Mr. Burns never propounded any discovery to the Defendant, despite Mr. Koss' requests that he do so.
99. Mr. Koss responded on May 13, 2024: "I'm sorry to hear you're not well. I started this process back in October. I had hoped it would be finished by now. I don't want to extend. I want this resolved. I'm really

disappointed that it's taken 6 months to answer questions and get answered from them.”

100. Mr. Burns did not respond until May 24, 2024.

101. The following text messages were exchanged between Mr. Burns and Mr. Koss on May 24, 2024:

- a. Mr. Burns: “I’ll call you back. In the post office right now. “
- b. Mr. Koss: “I just got off the phone with the court. You’re (sic) voice box is full. You never submitted my responses. You never told me the defendant made a motion to I for judgemental (sic) because my answers were never submitted. You never submitted my questions. Wth??????”
- c. Mr. Burns: “Just called and went to voicemail. Your answers were emailed to opposing counsel. I have the email.”
- d. Mr. Koss: “When did you send the email? Can you forward me the email? Did you file it with the court? Defendant made a motion for judgment because I never responded. Did you file my questions to defendant?? They filed the motion for judgement (sic) over a month ago. You never informed me. You never responded. I never had a chance to respond to that motion.”
- e. Mr. Burns: “Response (sic) don’t get filed with the court they go to the other side. I emailed an electronic copy because thats (sic) what you gave me first. Then I sent him the hard copy of the answers with the notary seal. I’m not in the office now but I’ll get you the email when I get back.
- f. Mr. Koss: “When were you notified about there (sic) motion for judgement (sic)? I asked about the status and you never brought it up!”
- g. Mr. Burns: “I’ve not seen a motion for judgment, if I had I would have told the clerk we sent discovery. We can respond if the other side has asked for judgment. I have the emails exchanged with the other side. Are you available later today? Via phone?”
- h. Mr. Koss: “The court sent you the notice to burnslegalservices603@gmail.com on 4/19. On 5/3 the court granted the motion. I lost. They also emailed you the notice. They said you never opened the email. I have no words right now. I paid you to represent me and you did nothing!! I lost

this case almost 3 weeks ago and my own attorney didn't even know. I had to find out from the clerk court. Unbelievable!!"

102. Mr. Burns falsely represented to his client that Mr. Burns had "sent [opposing counsel] the hard copy of the answers with the notary seal."
103. Later that day at 5:02 pm, Mr. Koss sent a follow up text message to Mr. Burns, "I haven't received the email that you sent Jack White. Can you please send that me (sic) today?"
104. Mr. Burns responded, "I'll send it as soon as I'm at my computer."
105. On May 24, 2024, Mr. Burns forwarded via email a copy of the email sent to Mr. White on February 23, 2024 with the Answers to Interrogatories attached.
106. On May 27, 2024 Mr. Koss sent an email to Mr. Burns, requesting, "Please forward me the email to Attorney White with my interrogation questions as well as a list of all communications between you and Attorney White. Thanks."
107. Mr. Burns did not respond.
108. Mr. Koss sent a follow up text to Mr. Burns on May 28, 2024, stating: "I sent you an email earlier. Can you please forward me all communication between you and attorney White by tomorrow? When did you send him my questions for my interrogation?"
109. Mr. Burns did not respond.

110. Mr. Koss sent another text to Mr. Burns on May 29, 2024, "I emailed you yesterday. Can you please send me the information that I requested today? Thanks."
111. Mr. Burns, responded, "Yes. I'm at a seminar but I'll take a look when I get back."
112. On May 30, 2024, Mr. Burns emailed Mr. Koss, and stated:
- Jeff,
- The envelope that contained the thumb drive appears to have been destroyed by the post office. I requested to vacate the order and attached a picture of the destroyed envelope that was returned to me yesterday.
113. Attached to this email was a pdf of a Petitioner's Motion to Vacate Default which sought to vacate the default judgment based on Mr. Burns' claim that the thumb drive he had forwarded to Mr. White had been returned damaged by the post office.
114. Mr. Burns included with this Motion a photocopy of an envelope and a note from the post office, but the photo does not show a postdate on the envelope.
115. In any event, Mr. Burns never filed a Motion to Vacate Default.
116. On June 10, 2024, Mr. Koss sent an email to Mr. Burns following up on his previous email request on May 27, 2024. Mr. Koss's email made a second request for the following information:
- a. When did you send attorney White my interrogatory questions. Can you please forward your email to him.
 - b. Can you please explain why you ignored the court's notification email about the motion for judgement in April?

- c. Can you please explain why you ignored the court's notification email about the decision to grant the defendant's motion for judgement. The only reason you were aware of both events from the court was because I notified you with the details, after I contacted court directly. I could not get a reply from you about the status of my case when I texted and tried to call so I was forced to contact the court myself.
 - d. Can you please reply with the details of the dates and times that you contacted attorney White?
117. Mr. Burns did not respond to Mr. Koss.
118. On June 21, 2024, Mr. Koss texted Mr. Burns that he would be contacting the attorney discipline office.
119. Mr. Koss hired a new attorney to represent him in the Action.
120. Successor counsel filed a Motion to Reopen and a Motion to Strike Default on July 16, 2024.
121. Mr. White filed Defendant's Objection to Plaintiff's Motion to Strike Final Default Judgment on July 26, 2024.
122. Mr. White argued that striking the final judgment was not appropriate because there was no excusable neglect but rather Mr. Burns "repeatedly failed to act."
123. On August 5, 2024, the Court denied the Plaintiff's Motion to Strike Final Default citing the reasons set forth in Defendant's Objection to Plaintiff's Motion to Strike Final Default.
124. Mr. Burns never refunded any portion of the \$3,000 retainer to Mr. Koss.
125. Mr. Koss paid successor counsel approximately \$2,000 to attempt to strike the default.

126. Mr. Burns filed a Trust Account Compliance Certification for the reporting year June 1, 2023 to May 31, 2024 attesting that he was not “out of trust at any time during the reporting period.”

RULINGS OF LAW

127. Mr. Burns’ conduct in this case raises questions under the following New Hampshire Rules of Professional Conduct.

Rule 1.1: Competence

128. Findings set forth above are incorporated by reference.

129. 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.

130. Mr. Burns violated Rule 1.1 in Mr. Koss' matter by repeatedly failing to perform the techniques of practice with skill, failing to properly prepare, failing to attend to details and schedules necessary to assure Mr. Koss' matter was undertaken and completed with no avoidable harm to Mr. Koss, and by failing to undertake actions on Mr. Koss' behalf in a timely manner.
131. Mr. Burns violated Rule 1.1 by failing to competently represent Mr. Koss, including:
 - a. Failing to forward discovery responses in a timely manner to Mr. Koss once they were propounded by the Defendant;
 - b. Failing to forward, at any point, the RFPs to Mr. Koss which were propounded by the Defendant;
 - c. Failing to respond to the RFPs;
 - d. Failing to propound Mr. Koss' interrogatories and requests for production on the Defendant;
 - e. Failing to file an objection to the Motion for Entry of Final Judgment; and
 - f. Failing to respond to opposing counsel's multiple communications and courtesies requesting production of discovery.

Rule 1.3: Diligence

132. Findings set forth above are incorporated by reference.

133. Rule 1.3 states as follows:

A lawyer shall act with reasonable diligence and promptness in representing a client.

134. Mr. Burns violated Rule 1.3 by failing to be diligent in his representation Mr. Koss, including:

- a. Failing to forward discovery responses in a timely manner to Mr. Koss once they were propounded by the Defendant;
- b. Failing to forward, at any point, the RFPs to Mr. Koss which were propounded by the Defendant;
- c. Failing to respond to the RFPs;
- d. Failing to propound Mr. Koss' interrogatories and requests for production on the Defendant;
- e. Failing to file an objection to the Motion for Entry of Final Judgment; and
- f. Failing to respond to opposing counsel's multiple communications and courtesies requesting production of discovery.

135. Mr. Burns' failures violate Rule 1.3.

Rule 1.4: Communication

136. Findings set forth above are incorporated by reference.

137. Rule 1.4 states as follows:

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these Rules;

- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter.
- (4) promptly comply with reasonable requests for information; and
- (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain the legal and practical aspects of a matter and alternative courses of action to the extent that such explanation is reasonably necessary to permit the client to make informed decisions regarding the representation.

138. Mr. Burns violated Rule 1.4 as set forth herein because he failed to keep Mr. Koss reasonably informed about the status of his matter throughout the pendency of the Action, including:

- a. Failing to inform Mr. Koss that discovery was propounded in December 2023;
- b. Failing to inform Mr. Koss that discovery responses were overdue and a conditional default had been entered in February 2024;
- c. Failing to ever forward to Mr. Koss the RFPs propounded by the Defendant; and
- d. Failing to inform Mr. Koss that a Motion for Entry of Final Judgment had been filed, then granted.

139. Mr. Burns violated Rule 1.4 because he failed to comply with reasonable requests for information throughout the representation, including inquiries by Mr. Koss that went unanswered in the March – June 2024 time frame.

Rule 1.15: Safekeeping Property

140. Findings set forth above are incorporated by reference.

141. Rule 1.15 states as follows:

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

person, shall promptly render a full accounting regarding such property.

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

- 142. Mr. Burns violated Rule 1.15 by engaging in two unauthorized cash withdrawals from his IOLTA on November 3, 2023 and November 9, 2023 as set forth herein, ¶¶ 14(b), 14(c).
- 143. Mr. Burns violated Rule 1.15 by allowing his IOLTA to be overdrawn and with a negative balance of \$200, as set forth herein ¶ 12.
- 144. Mr. Burns violated Rule 1.15 by disbursing Mr. Koss' \$3000 retainer to his personal operating account without having earned it.

Rule 3.3: Candor Toward the Tribunal

- 145. Findings set forth above are incorporated by reference.
- 146. Rule 3.3 states in pertinent part as follows:
 - (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 if 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.

147. Mr. Burns violated Rule 3.3 when he knowingly and falsely represented on his annual Trust Account Compliance Certifications for the reporting year June 1, 2023 to May 31, 2024 that he was never out of trust “at any time during the reporting period.”
148. This statement was false because Mr. Burns had a negative balance of \$200 in his IOLTA on October 27, 2023, and by definition was out of trust on that date.

Rule 3.4: Fairness to Opposing Party and Counsel

149. Findings set forth above are incorporated by reference.
150. Rule 3.4 states, in pertinent part, as follows:
- A lawyer shall not:
- (a) unlawfully obstruct another party' s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;
 - (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
 - (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;
 - (d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
151. Mr. Burns violated Rule 3.4(d) by failing, from December 20, 2023, when the Defendant propounded discovery, until May 2, 2024, when final

judgment was entered against Mr. Koss, to make a reasonably diligent effort to comply with the Defendant's legally proper discovery requests.

Rule 4.1: Truthfulness in Statements to Others

152. Findings set forth above are incorporated by reference.

153. Rule 4.1 states as follows:

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

154. Mr. Burns violated Rule 4.1 by making a false statement of material fact to Mr. White, opposing counsel, when he provided interrogatory responses via email on February 23, 2024 which contained a false notarization and verification.

Rule 8.4(c): Deceit

155. Findings set forth above are incorporated by reference.

156. Rule 8.4(c) states as follows:

It is professional misconduct for a lawyer to:

- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

157. Mr. Burns violated Rule 8.4(c) by engaging in conduct that was dishonest and deceitful by failing to disclose to Mr. Koss highly material facts relating to the status of discovery throughout the representation,

including Mr. Burns' own failure to act and respond timely to that discovery, as well as the default in the Action due to his inaction.

158. Mr. Burns violated Rule 8.4(c) when he falsely stated to Mr. Koss on May 12, 2024 that "we extended the deadlines," at a time a final judgement had already been entered.
159. Mr. Burns violated Rule 8.4(c) when he lied to Mr. Koss in a text dated May 24, 2024, in which Mr. Burns represented that he had sent Mr. White the hard copy of the interrogatories with the notary seal.
160. Mr. Burns violated Rule 8.4(c) when he lied to Mr. Koss on May 30, 2024 and falsely informed Mr. Koss that Mr. Burns had "requested to vacate the [final] order" in Court.
161. Mr. Burns engaged in dishonest conduct by misappropriating Mr. Koss' \$3,000 retainer.
162. Mr. Burns violated Rule 8.4(c) by providing to Mr. White interrogatory responses via email on February 23, 2024 which contained a false notarization and verification.

Rule 8.4(a): General Rule

163. Because of the findings of rule violations, this constitutes a violation of N.H. R. Prof. Conduct 8.4(a).

RECOMMENDED SANCTION

164. The *American Bar Association Standards for Imposing Lawyer Sanctions* (1992) ("*Standards*") set forth disbarment as the baseline sanction. No

mitigators justify a downward departure from the baseline sanction. A disbarment serves the purposes of attorney discipline.

165. The purpose of the Court's disciplinary power "is to protect the public, maintain public confidence in the bar, preserve the integrity of the legal profession, and prevent similar conduct in the future." *E.g., 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).
166. 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.
167. The first three steps 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").
168. Once the baseline sanction is determined, the Court then looks to the fourth and final step in 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”).

Duties Violated

169. Under the first prong of the analysis, Mr. Burns violated each of his duties owed as an attorney, across the spectrum of where those duties flow. Specifically, he violated his duties owed to his client (Rules 1.1, 1.3, 1.4, 1.15, 8.4(c)), to the general public (Rule 8.4(c)), to the legal system (Rules 3.3, 3.4(d) and 4.1), and to the legal profession (Rule 8.4(c)).
170. Additionally, Mr. Burns has failed to cooperate in the disciplinary process, thereby violating Rule 8.1(b).

Mental State: Intentional

171. With respect to Mr. Burns’ mental state under the second prong of the sanction analysis, Mr. Burns’ mental state was intentional. This is the most culpable mental state under the *Standards*.
172. The *ABA Standards*, as well as New Hampshire’s Rules of Professional Conduct, differentiate between a knowing state of mind and an intentional state of mind. Knowing misconduct represents a less culpable mental state than intentional misconduct.¹

¹ Rule 1.0(f) of the N.H.R. Prof. Conduct defines “knowingly” as “denoting] 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.”).

173. An intentional state of mind is the most culpable state of mind, defined in the *ABA Standards* as acting with “a conscious objective or purpose to accomplish a particular result.”
174. Here, Mr. Burns had a conscious objective to mislead his client into believing that all was proceeding normally in the litigation, when in fact it was in a default posture. A reasonable inference is that Mr. Burns did not want Mr. Koss to request a refund of his retainer, which Mr. Burns depleted within nine days of deposit at a time when he had performed virtually no work. Indeed, Mr. Koss’ retainer was deposited into the IOLTA at a time when it was overdrawn by \$200.
175. Mr. Burns’ intentional state of mind is also demonstrated by explicit lies to his client (see NOC at ¶¶ 154-161), and by forwarding discovery to opposing counsel containing a false notarization and verification (see NOC at ¶¶ 151-153). The interrogatory responses that he forwarded to opposing counsel contained a false notarization, and Mr. Burns knew it was false: the notarization states Mr. Koss “personally appeared” before J.P. Nadeau on February 23, 2024, when as of this date Mr. Koss had not even finalized or approved the responses. Mr. Koss never met J.P. Nadeau, and he did not have his interrogatory responses notarized until March 5, 2024.
176. Finally, Mr. Burns’ lies by omission are equally serious. A review of the texts and emails between him and his client demonstrate a pattern. First, a pattern of Mr. Burns mollifying his client that all was well when

in fact default proceedings were underway. And second, a pattern of Mr. Burns' simply ignoring his client once Mr. Koss discovered the final judgment through his own efforts with the court.

177. This pattern is one of intentional deception with a self-interested motive; namely, to avoid the consequences of his inaction and to keep the \$3,000 retainer while performing essentially no useable work.

Injury

178. The third prong of the sanction analysis requires an assessment of the actual or potential injury caused by Mr. Burns' misconduct.
179. Mr. Burns caused significant, actual injury. His abandonment of Mr. Koss' case meant that Mr. Koss lost his cause of action against a defendant that caused him harm, not because Mr. Burns performed poorly in a trial, but because he intentionally allowed the matter to proceed to final judgment, robbing Mr. Koss of his day in court.
180. Mr. Koss was ordered to pay costs of \$145, and Mr. Koss paid a new attorney around \$2,000 in an unsuccessful attempt to set aside the default judgment. In addition, Mr. Koss has had to hire counsel to pursue a malpractice claim.
181. Mr. Burns' conduct caused more than just financial injury. It injured Mr. Koss' confidence in the Bar and the legal professional generally, and his experience with Mr. Burns caused him stress and anxiety, as he navigated months of no communication from Mr. Burns.

182. Mr. Koss testified during the sanction hearing to this injury. In short, rather than protect Mr. Koss' interests and advocate for his position, Mr. Burns caused a default judgment, lying to Mr. Koss along the way and misappropriating \$3,000.

Baseline Sanction is Disbarment Given Duties Violated,
Intentional Mental State, and Serious Injury

183. Given that Mr. Burns violated every duty a lawyer owes, acted intentionally, and caused significant injury, Mr. Burns' baseline sanction is a disbarment, under every applicable *Standard*. No mitigators justify a downward departure from this baseline.

184. Mr. Burns' violation of Rule 1.15 by failing to safeguard the property of Mr. Koss, *i.e.* the retainer, implicates *Standard 4.1 – 4.11*

185. 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 the failure to preserve client property:

4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

4.13 Reprimand is generally appropriate when a lawyer is negligent in dealing with client property and causes injury or potential injury to a client.

4.14 Admonition² is generally appropriate when a lawyer is negligent in dealing with client property and causes little or no actual or potential injury to a client.

(emphasis added).

186. Mr. Burns' conduct in this matter, when considered under *Standard*

4.11, would call for a baseline sanction of disbarment.

187. Mr. Burns' 1.3 and 1.4 rule violations implicate Section 4.41 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
- (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

² 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.

representing a client, and causes little or no actual or potential injury to a client.

(emphasis added).

188. Mr. Burns' 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).

189. Mr. Burns dishonesty to Mr. Koss, and to opposing counsel Jack White, in violation of Rule 4.1 and 8.4(c), implicates *Standard* 5.1, specifically

5.11(b). 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 commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or in cases with conduct involving dishonesty, fraud, deceit, or misrepresentation:

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.**

5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

5.13 Reprimand is generally appropriate when a lawyer knowingly engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the lawyer's fitness to practice law.

5.14 Admonition is generally appropriate when a lawyer engages in any other conduct that reflects adversely on the lawyer's fitness to practice law.

(emphasis added).

190. Mr. Burns' conduct in this matter, when considered under *Standard* 5.11(b), would call for a baseline sanction of disbarment.

191. Mr. Burns' filing of false trust account compliance certificates in violation of Rule 3.3 implicates *Standard* 6.1, specifically *Standard* 6.11.

192. 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).

193. Mr. Burns' conduct in this matter, when considered under *Standard* 6.11, would call for a baseline sanction of disbarment.

194. Mr. Burns' failure to make a reasonably diligent effort to respond to discovery in violation of Rule 3.4(d) implicates *Standard* 6.2, specifically *Standard* 6.21. 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 Reprimand 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 Admonition 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).

195. Mr. Burns' conduct in this matter, when considered under *Standard* 6.21, would call for a baseline sanction of disbarment.

196. Finally, based on the record in this matter, this Panel may find that Mr. Burns also violated Rule 8.1(b), requiring that he cooperate with the disciplinary authority and its requests for information.

197. These matters were not charged in the NOC, because at that time the formal litigation had just begun. Since that time, however, the record shows that Mr. Burns has refused to respond or participate in the formal proceeding. He did not attend the prehearing conference. He appeared

for the sanction hearing. Before the matter was referred to Disciplinary Counsel for formal proceeds, he did not respond to the mandatory docketing letter sent by General Counsel. See Rule 37A(III)(c)(3) (“additional evidence”); Exhibits 1-3 (introduced at sanction hearing).

Mitigating Factors Do Not Justify a Downward Departure

198. The baseline sanction must be considered and/or adjusted in light of any aggravating and mitigating factors. *E.g., Conner’s Case*, 158 N.H. at 303.
199. Aggravators in this matter are numerous, while *no* mitigators apply. Aggravating factors include dishonest or selfish motive, a pattern of misconduct, multiple offenses, bad faith obstruction of the disciplinary proceeding, and substantial experience in the practice of law. See *Standards* § 9.22.
200. No mitigators are present. See *Standards* § 9.32.
201. Though Mr. Burns does not have a final imposition of other discipline, the ADO notes that a public disciplinary proceeding is currently pending. See *Burns, Christopher R. advs. ADO - #23-027*. That matter is stayed pending the outcome of this matter.
202. In that case, Mr. Burns ceased all communication with the ADO, violated an Order to produce discovery after a motion to compel was granted, and failed to appear at the prehearing conference in the matter as well as the sanction hearing. Under these circumstances the ADO’s position is that the “absence of a prior disciplinary record” mitigator does not apply.

203. Given the baseline sanction, and consideration of aggravating and mitigating circumstances, a disbarment serves the purposes of discipline and is an appropriate sanction in this case.

E. Case Law

204. A disbarment in this matter is proportional to discipline imposed in other cases involving attorneys who breach fundamental duties such as safeguarding property of clients and maintaining honesty and candor to clients and the courts. *See In re Salomon's Case*, 171 N.H. 694 (2019) (disbarment for violations of Rules 1.2, 1.4, 1.7, 3.1, 4.1, 3.4, and 8.4(c), finding “[g]iven the lack of mitigating factors, and the presence of numerous aggravating factors, we conclude that disbarment is the proper sanction. Disbarment is necessary to protect the public and preserve the integrity of the legal profession when, as in this case, an attorney allows his personal interests to take precedence over his duty of loyalty to his clients.”); *In re Jeremy Miller*, LD-2017-007 (disbarment for violating a host of rules, including 1.15, 1.7, 8.1(b), 3.3, 3.4(c), and 8.4(c)).

205. “The injury to the public and to the profession is substantial whenever an attorney is dishonest.” *In re: Gallant's Case*, 170 N.H. 528, 538 (2017) (internal citations omitted). “No single transgression reflects more negatively on the legal profession and erodes public confidence in the bar more completely than a lie.” *Id.* (quotations omitted). “This is because

the privilege of practicing law includes the concomitant responsibilities of truth, candor and honesty.” *Id.* (quotation omitted).

206. In addition, a lawyer's obligation to “refrain, at the least, from misuse of a client's property must stand among the most insistent of professional norms.” *Coddington's Case*, 155 N.H. 66, 70 (2007) (quotation omitted).

In cases involving an attorney's misuse of client funds, the Supreme Court takes severe disciplinary action. *See id.* (collecting cases involving disbarment or suspension of attorneys for misuse of client funds or “out of trust” IOLTA accounts).

207. Taking into consideration the four-part analysis recommended by the *Standards*, the purposes of attorney discipline in New Hampshire, and case law in this state, the Hearing Panel should recommend that Mr. Burns be disbarred.

208. In accordance with New Hampshire Supreme Court Rule 37(A) (III)(d)(1) the Hearing Panel recommends that the New Hampshire Supreme Court Professional Conduct Committee recommend to the New Hampshire Supreme Court the imposition of disbarment of Christopher R. Burns for violation of the New Hampshire Rules of Professional Conduct.

209. The panel also recommends that Christopher R. Burns be ordered to reimburse the Professional Conduct Committee for all costs associated with the investigation and prosecution of this matter.

Respectfully submitted,



Hon. Peter H. Fauver
Hearing Panel Chair

September 29, 2025

cc: Sara S. Greene, Disciplinary Counsel
Christopher R. Burns, Esquire