

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

ORDER

LD-2025-0003, In the Matter of Steven D. DiLibero, Esquire

On April 4, 2025, 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 (Supreme Judicial Court), which suspended the respondent, Attorney Steven D. DiLibero, from the practice of law in Massachusetts for a period of one year, with six months and one day of the suspension to be served and the balance stayed for one year on specified conditions. With that filing, the ADO set forth its position that Attorney DiLibero's "misconduct does not warrant the imposition of identical discipline in New Hampshire" and that Attorney DiLibero "should either be suspended from the practice of law for three years or disbarred in New Hampshire."

The Supreme Judicial Court issued the suspension based on the factual findings and recommendation of the Massachusetts Board of Bar Overseers (BBO). The BBO found that Attorney DiLibero gave incorrect legal advice to a client regarding the immigration-related consequences of accepting a six-month continuance without a finding (CWOFF) in a criminal case. Following that advice, the client, a permanent U.S. resident who hoped to become a citizen, admitted to sufficient facts as to one count of possession of heroin with intent to distribute. Contrary to Attorney DiLibero's advice, the CWOFF rendered the client immediately deportable, subject to mandatory detention, permanently inadmissible to the United States, and ineligible for citizenship. The client later learned from an immigration attorney that the advice given by Attorney DiLibero was incorrect; when the client shared that information with Attorney DiLibero, he insisted (incorrectly) that the CWOFF would not count as a conviction under federal law. The client then retained successor counsel to obtain relief from the CWOFF. Attorney DiLibero failed to respond promptly to successor counsel's requests for a copy of the client's file and for other information, and when he did provide an incomplete response approximately five months after the initial request, Attorney DiLibero falsely denied ever advising the client that the CWOFF would carry no adverse immigration consequences.

The BBO determined that Attorney DiLibero violated the following Massachusetts Rules of Professional Conduct: 1.1 (competence); 1.2(a) (must seek lawful objectives of client); 1.3 (diligence); 1.4(b) (communication with

client); 1.15A(b) (client files must be made available to former client); 1.16(d) (must protect client's interests upon terminating representation); 8.4(c) (dishonesty); and 8.4(d) (conduct prejudicial to the administration of justice). Except for Massachusetts Rule 8.4(d), each of those provisions has a substantively analogous rule or judicial decision in New Hampshire.

The Supreme Judicial Court "conclude[d] that the [BBO's] findings of fact are supported, and that they establish the charged misconduct" of Attorney DiLibero, which the court summarized as follows: "As charged and proven, he not only acted without diligence and neglected his client, but also lied to and otherwise failed to cooperate with successor counsel." The Supreme Judicial Court also agreed with the BBO that "there were no applicable factors in mitigation, but several factors in aggravation: [Attorney DiLibero's] experience as an attorney; his lack of remorse, and lack of understanding as to his ethical responsibilities; [the client's] vulnerability, as an immigrant facing deportation; and the risk of harm caused by the . . . incorrect immigration advice and follow-up conversations." Weighing the "totality" of the misconduct and the aggravating factors in light of previous Massachusetts disciplinary decisions, the Supreme Judicial Court determined that the appropriate sanction was a one-year suspension, with six months and one day of the suspension to be served and the balance stayed for one year on specified conditions.

New Hampshire 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 respondent attorney or the ADO demonstrates, or the court finds that it clearly appears upon the face of the record from which the discipline is predicated, that: (1) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or (2) the imposition of the same or substantially similar discipline by the court would result in grave injustice; or (3) the misconduct established warrants substantially different discipline in New Hampshire.

On April 17, 2025, this court issued an order in accordance with Rule 37(12)(d) providing Attorney DiLibero an opportunity to advise the court of his position as to whether the court should impose discipline identical or substantially similar to that imposed in Massachusetts by the Supreme Judicial Court. Attorney DiLibero filed a timely response, arguing that none of the three factors set forth in Rule 37(12)(d) is present here and that identical or substantially similar discipline should be imposed in New Hampshire.

After reviewing the record of the Massachusetts discipline, the ADO's filing, and Attorney DiLibero's response, we agreed with the parties that the Massachusetts procedure was not so lacking in notice or opportunity to be heard

as to constitute a deprivation of due process and that the imposition of the same or substantially similar discipline by this court would not result in grave injustice. We therefore focused on the third factor set forth in Rule 37(12)(d) and disagreed with Attorney DiLibero on this point. In light of the number of rules violations, including the lie to the client's successor counsel, we concluded that Attorney DiLibero's misconduct would warrant substantially more serious discipline in New Hampshire than a one-year suspension, with six months and one day of the suspension to be served and the balance stayed for one year on specified conditions. Accordingly, on June 20, 2025, we referred the matter to the Professional Conduct Committee (PCC) for its recommendation regarding the discipline to be imposed. See Rule 37(12)(e).

On September 8, 2025, the PCC filed its recommendation for a suspension of two years and six months, with the suspension running retroactively to April 4, 2025, and with six months of the suspension stayed for one year. The PCC's recommendation weighed the aggravating factors against one mitigating factor (the absence of a disciplinary history) and considered that Attorney DiLibero "committed multiple rule violations over a span of months." The PCC reasoned: "Every lawyer makes mistakes. But the ethical obligation when confronted with one's mistakes is not to double-down on the incorrect legal advice, and then stonewall and lie to successor counsel who is making good faith efforts to avoid the catastrophic result of the mistake."

After receiving the PCC's recommendation, we issued an order requesting the parties to identify any legal or factual issues relating to the PCC's recommendation that they wished the court to review. See Rule 37(16)(c). Attorney DiLibero filed a timely response, raising the following issues: (1) the PCC relied on one aggravating factor that Massachusetts had not identified as an additional rule violation; (2) as a matter of both interstate comity and deference to the Massachusetts tribunal, New Hampshire should not impose substantially greater discipline; and (3) the New Hampshire decision on which the PCC relied for its recommended discipline, see Bosse's Case, 155 N.H. 128 (2007), is not "most on-point." We disagree with Attorney DiLibero that these issues undermine the PCC's recommendation.

In attorney discipline matters, we retain ultimate authority to determine the proper sanction. See Bosse's Case, 155 N.H. at 130-31. Although we judge each attorney discipline case upon its own facts and circumstances, we have consistently stated that "no single transgression reflects more negatively on the legal profession than a lie." Id. at 131, 132 (quotation and brackets omitted); see also Mesmer's Case, 173 N.H. 96, 109 (2020). Here, we conclude that the PCC's recommended discipline is appropriate and consistent with our previous cases in which attorneys with no prior disciplinary history have been suspended for


misconduct involving dishonesty. See Bosse's Case, 155 N.H. at 135 (two-year suspension); see also Mesmer's Case, 173 N.H. at 114-15 (collecting cases involving suspensions between one and three years).

Accordingly, after reviewing the PCC's recommendation and record, the court accepts the PCC's recommendation and orders that Attorney Steven D. DiLibero is suspended from the practice of law in New Hampshire for a period of two years and six months, with the suspension running retroactively to April 4, 2025, and with six months of the suspension stayed for one year on the conditions set forth in the Massachusetts Supreme Judicial Court's order of term suspension.

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

DATE: January 14, 2026

ATTEST:



Timothy A. Gudas, Clerk

Distribution:
Professional Conduct Committee
Mark P. Cornell, Esq.
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Steven D. DiLibero, Esq.
File