

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

In the Matter of :
 :
BRIAN R. GORMLEY, ESQ., : **Disciplinary Docket No. 2023-D080**
 :
Respondent :
 :
A Member of the Bar of the D.C. :
Court of Appeals :
D.C. Bar No. 488494 :
 :
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PETITION FOR NEGOTIATED DISCIPLINE

Disciplinary Counsel and Respondent Brian Gormley agree to this petition for negotiated discipline pursuant to D.C. Bar Rule XI, § 12.1 and Board Rule 17. Disciplinary Counsel opened an investigation of Respondent Gormley pursuant to D.C. Bar Rule XI, §§ 6(a)(2), 8(a), and Board Rule 2.1.

I. STATEMENT OF THE NATURE OF THE MATTER THAT WAS BROUGHT TO DISCIPLINARY COUNSEL’S ATTENTION

This matter was brought to Disciplinary Counsel’s attention by Gormley’s former client who complained that Gormley had an undisclosed conflict of interest arising out of his representation of the opposing party in unrelated matters.

II. STIPULATION OF FACTS AND RULE VIOLATIONS

1. Respondent Brian R. Gormley is a member of the Bar of the District of Columbia Court of Appeals. He was admitted on August 9, 2004, and assigned Bar

Number 488494.

Gormley's Representation of Thomas J. Monroe, Jr.

2. Thomas J. Monroe, Jr., is the personal representative of the estates of his deceased father, Thomas J. Monroe, Sr., and his deceased wife, Gloria J. Monroe.

3. Monroe Sr.'s estate was opened in 2007, Case No. 2007-ADF-001232 (D.C. Superior Court, Probate Division), and was still open in 2023. Attorney Valerie Edwards represented Monroe in connection with his father's estate.

4. Gormley represented Monroe in probating the estate of Monroe's deceased wife. On September 24, 2021, Gormley filed a petition for probate on Monroe's behalf. *In re Gloria J. Monroe*, 2021 ADM 001358 (D.C. Superior Court, Probate Division). The following month, the Probate Court appointed Monroe as personal representative.

Monroe's Litigation on Behalf of the Two Estates and
Gormley's Involvement on Both Sides

5. In mid-2002, Monroe initiated two separate real estate actions on behalf of his father's and wife's estates, respectively.

6. In May 2022, Monroe (represented by Edwards) filed a complaint in the D.C. Superior Court on behalf of his father's estate to quiet title to 605 Kennedy Street, NW – property previously owned by his father and mother. Monroe named as defendants his siblings – including Bertha Jones, Emma Graves, and Elizabeth Jones – and others with a claim to the property, including the former personal

representative of the estate of their deceased mother.

7. In June 2022, Gormley filed a complaint in which Monroe (as personal representative of his wife's estate) sought possession of a separate property located at 600 Darrington Street, SE.

8. While Gormley was representing Monroe in the probate of his wife's estate, he agreed to represent three of Monroe's siblings who were defendants in the quiet title action that Monroe filed in May 2022.

9. Tiffany Janvier nee Yearwood, a relative of the three siblings Monroe sued who sought legal representation, contacted Gormley in January 2023 about the quiet title litigation. Janvier is the niece of defendants Bertha Jones and Emma Graves, and the granddaughter of defendant Elizabeth Jones.

10. On January 9, 2023, Gormley discussed the quiet title litigation with Janvier and charged her a \$75 consultation fee.

11. The following day, Janvier sent Gormley the summons that had been issued in the case showing that Gormley's own client, Thomas J. Monroe, Jr., had filed the action.

12. On January 11, 2023, Gormley emailed Janvier his advice based on his review of the documents. Gormley charged Janvier an additional fee of \$250 for the advice, which she paid.

13. The following day, Bertha Jones contacted Gormley directly to say they still needed representation in the court case.

14. On January 19, 2023, Gormley provided a fee agreement to Bertha Jones, Elizabeth Jones, and Emma Graves (the clients) stating that he would represent them in the “Real Estate Litigation” and charge them hourly fees. The agreement required the clients to pay Gormley’s firm an advance of \$2,500 before he would perform any work.

15. All three clients signed the written fee agreement and Bertha Jones advanced Gormley \$2,500 for his fees. Janvier confirmed with Gormley’s office that they had received the funds, and Gormley’s office manager told her that Gormley would “be in touch soon.”

16. When Gormley agreed to represent the three clients, he had received, reviewed, and provided advice about the complaint and other documents that Janvier had provided showing that his client, Thomas J. Monroe, Jr., was the plaintiff in the case and was adverse to the three clients he would represent.

17. Gormley later represented to Disciplinary Counsel that his office manager does conflicts checks for new matters. It is unclear whether one was done. Gormley had no documents that a check was done or the results of any such check.

18. Gormley did not tell Janvier or his clients that he currently represented Monroe. Nor did Gormley seek or obtain a waiver from them.

19. In February and March 2023, Janvier who acted as the clients’ representative, exchanged a number of emails with Gormley about the quiet title action. Janvier told Gormley about the clients’ concerns about Monroe’s receiving

rent for the property, his failure to account, the clients' unwillingness to sell the property or accept Monroe's proposed split of the proceeds, and the clients' earlier motion to have the quiet title action dismissed.

20. Gormley also communicated with Edwards, Monroe's counsel in the litigation. Gormley informed her that he was representing the three clients and he and Edwards exchanged emails in which Gormley requested an accounting on behalf of his clients and they discussed the possibility of settlement.

21. In early March 2023, Janvier notified Gormley of the March 23, 2023 hearing in the litigation.

22. Gormley told Janvier he was not available, but did not arrange for another lawyer in his office to attend the hearing. On the day of the hearing, Gormley called in and listened to the proceedings remotely.

23. At the conclusion of the hearing, the court dismissed the matter without prejudice.

24. After the hearing, Edwards exchanged emails with Gormley and counsel for the other defendants. In one email, Edwards said she disagreed with the judge's decision to dismiss the case, indicated that she would refile the complaint, and asked if Gormley and the other counsel would accept service on behalf of their clients.

25. Gormley also communicated with Janvier about the case after the March 2023 hearing.

26. In mid-April 2023, the clients learned that Gormley had been simultaneously representing Monroe in other matters. On April 18, 2023, Janvier emailed Gormley stating that the clients were firing him immediately.

27. The next day, Gormley emailed Janvier saying that he was unaware that his client Monroe was the plaintiff in the quiet title action. Gormley claimed that there was no conflict of interest because a “conflict of interest would require contrasting positions in the same matter, or other representation that would prejudice clients.” Gormley claimed that the clients were not prejudiced and he had earned most of the fees he was paid. However, he told Janvier that if the clients felt strongly they had been prejudiced or did not receive legitimate legal services, he would issue a refund.

28. On April 20, 2023, Bertha Jones filed a complaint against Gormley with the Office of Disciplinary Counsel.

29. On April 24, 2023, Gormley refunded \$2,500 to Bertha Jones. Gormley also refunded to Janvier the consultation fees totaling \$325.

30. Gormley’s conduct violated the following Rules of the District of Columbia Rules of Professional Conduct:

- a. Rule 1.7(b), in that without the informed consent of each potentially affected client after full disclosure of the existence and nature of possible conflict and the possible adverse consequences of the representation, Gormley represented clients in a matter that involved

specific parties and the position to be taken by the clients in that matter was adverse to a position taken or to be taken by another client in the same matter, even though the other client was represented by different counsel; and

- b. Rule 5.1(a) in that Gormley, as a partner in his law firm, failed to make reasonable efforts to ensure that the firm had in effect measures giving reasonable assurance that the conduct of the lawyers in the firm conformed to the Rules of Professional Conduct.

III. STATEMENT OF PROMISES MADE BY DISCIPLINARY COUNSEL TO RESPONDENT

In connection with this Petition for Negotiated Disposition, Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II, *supra*, other than the Rule violations set forth above, or any sanction other than that set forth below.

IV. AGREED-UPON SANCTION

A. Agreed Sanction

Gormley and Disciplinary Counsel have agreed that the appropriate sanction for the stipulated misconduct and rule violations in this matter is a public censure with the following terms: (1) within at least three months of the Court's order approving the negotiated discipline, Gormley will take three hours of continuing legal education courses in legal ethics; and (2) within at least three months of the

Court's order approving the negotiated discipline, Gormley will meet with an advisor of the D.C. Bar's Practice Management Advisory Services to review his firm's policies and procedures, including those for detecting and resolving conflicts of interests, and implement any changes that the PMAS advisor recommends.

If Gormley fails to comply with the above conditions, he understands that Disciplinary Counsel may charge him with misconduct under Rule 8.4(d) for failing to abide by agreements made with Disciplinary Counsel or failure to obey a court order or both.

B. Relevant Precedent

Gormley's principal violation was engaging in a conflict of interest. The Court has imposed a range of sanctions for violations of Rule 1.7 from non-suspensory to suspensory sanctions. *See In re Rachal*, 251 A.3d 1038 (D.C. 2021) (30-day suspension, fully stayed with CLE requirement, for violating Rule 1.7(b)(1), as well as Rule 1.3(b)(2)); *In re Robbins*, 192 A.3d 558 (D.C. 2018) (60-day suspension and CLE requirements for violating Rule 1.7(b)(2) and (4), and Rule 1.4(a)); *In re Long*, 902 A.2d 1168 (D.C. 2006) (30-day suspension, fully stayed with probationary terms, for violating Rules 1.5(b), 1.7(b)(2), and 1.7(c)); *In re Evans*, 902 A.2d 56 (D.C. 2006) (six-month suspension, with three months stayed and probationary terms, for violating Rules 1.7(b)(4) and 8.4(d), as well as Rules 1.1(a) and 1.1(b)); *In re Ponds*, 888 A.2d 234 (D.C. 2005) (30-day suspension with CLE requirement for violating Rules 1.7(b) and 1.16(d)); *In re Butterfield*, 851 A.2d

513 (D.C. 2004) (30-day suspension for violating Rule 1.7(b)(1) and (2)).¹ Disciplinary Counsel also has issued admonitions for engaging in a conflict of interest. *See, e.g., In re Robert Hume*, DDNo. 2018-D346 (Dec. 1, 2020) (Hume violated Rule 1.7(b)(2) and (4) by failing to obtain informed consent from all affected clients, despite their awareness of his representation of the other, and Rule 1.8(d) for advancing financial assistance to a client).

C. Circumstances in Aggravation and Mitigation of Sanction

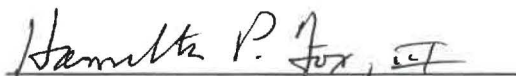
A public censure with probationary terms is justified because it is within the range of sanctions that could be imposed for Gormley's misconduct and takes into account certain mitigating factors, including that: (a) Gormley has no prior discipline; (b) Gormley provided a full refund to this clients; (c) the clients were not prejudiced; (d) Gormley fully cooperated in the investigation, including meeting with Disciplinary Counsel on two occasions; and (e) Gormley is accepting responsibility by entering into this petition for negotiated discipline and has agreed to take remedial measures.

WHEREFORE, the Office of Disciplinary Counsel requests that the

¹ The Court has imposed stayed suspensions in other negotiated cases involving conflicts of interest that included other Rule violations. *See, e.g., In re Davis*, 296 A.3d 908 (D.C. 2023) (30-day suspension, fully stayed with conditions, for violating Rules 1.7 and 8.4(d)); *In re Zipin*, No. 20-BG-192 (D.C. Apr. 23, 2020) (60-day suspension, fully stayed with terms, for violating Rules 1.1 and 1.7); *In re Radanovic*, 218 A.3d 748 (D.C. 2019) (30-day suspension, fully stayed with conditions, for violating Rules 1.1, 1.5(b), and Rule 1.7)).

Executive Attorney assign a Hearing Committee to review the petition for negotiated discipline pursuant to D.C. Bar Rule XI, § 12.1(c).

Respectfully submitted,



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Brian Gormley
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