



OFFICE OF DISCIPLINARY COUNSEL

January 8, 2016

Wallace E. Shipp, Jr.
Disciplinary Counsel

Elizabeth A. Herman
Deputy Disciplinary Counsel

Senior Assistant Disciplinary Counsel
Jennifer Lyman
Julia L. Porter

Assistant Disciplinary Counsel
Joseph N. Bowman
Gayle Marie Brown Driver
Hamilton P. Fox, III
Becky Neal
Joseph C. Perry
William Ross
H. Clay Smith, III
Traci M. Tait

Senior Staff Attorney
Lawrence K. Bloom
Dolores Dorsainvil
Jelani Lowery
Mary-Helen Perry

Manager, Forensic Investigations
Charles M. Anderson

Senior Forensic Investigator
Kevin E. O'Connell

Investigative Attorney
Caroll G. Donayre

***VIA FIRST-CLASS REGULAR
AND CERTIFIED MAIL NO. 9414 7266 9904 2039 4837 43***

Bernard A. Gray, Sr.
Law Office of Bernard A. Gray, Sr.
2009 18th Street, S.E.
Washington, D.C. 20020

***In re Bernard A. Gray, Sr., Esquire
D.C. Bar No. 955013
Bar Docket No. 2013-D438***

Dear Mr. Gray:

The Office of Disciplinary Counsel has completed its investigation of this matter. We find that your conduct reflected a disregard of certain ethics standards under the District of Columbia Rules of Professional Conduct (the Rules). We are issuing you this Informal Admonition pursuant to D.C. Bar R. XI, §§ 3, 6, and 8.

Disciplinary Counsel docketed this matter for investigation based on C.J. Jr.'s disciplinary complaint that he paid you to represent his interests in a landlord-tenant dispute in which he was the plaintiff. He states that he paid you \$1000 but that for the two years that you represented him, he spoke with you only twice, despite his calls to find out about the status of his matter. He believes that you failed to protect his interests in the litigation.

You deny your client's version of events, stating that you were retained to sue those who evicted him. You accepted \$1200 in costs and fees and filed an action on May 13, 2009. However, you discovered after you served the defendants that they were no longer in business.

On August 11, 2009, the District of Columbia Superior Court entered a default against the defendants. You failed to obtain a default judgment and on October 19, 2009, the court dismissed your client's case on that basis.

In responding to the disciplinary complaint alleging that you failed to communicate with your client or perform services for the funds he had paid, you state that you "appeared in [Landlord and Tenant] Court, searched the corporation records, attempted to locate the defendants and informed [him] why

the complaint was dismissed.”

You do not say when you informed your client of the dismissal but do not deny his claim that the representation lasted years. A review of the court records shows that the litigation lasted just five months. Further, a review of your client file reflects no correspondence or other communication with your client explaining what happened in his case, what his options were – given the default and the status of the defendants, and your view that no path forward existed. That the client believed the representation lasted for years and you had to research the status of his case reflect that you were unaware of its status when the case was dismissed soon after the case began. Therefore, Disciplinary Counsel credits your client’s claim that you failed to communicate with him about what was happening in his case.

You refunded your client \$1180 of the \$1200 he paid you for the representation.

Under Rule 1.4(a), a “lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.” Disciplinary Counsel credits your client when he reports that years had passed between when he hired you and when you informed him that his case had been dismissed, even though the case was over a few months after he hired you.

Under Rule 1.4(b), a “lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.” You never explained to your client the significance of the defendants’ default, what his options were (if any) at that time, and never clearly explained that you believed his case was over because you saw no basis to continue.

Under Rules 1.1(a) and (b), a “lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation,” and “serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters.” Your duty of thoroughness required you to monitor the progress of your client’s case in order to know that the defendants had defaulted, and to advise your client of his options at that point in the litigation. Your failure to do so violated your duty of competence, in violation of Rules 1.1(a) and (b).

Based on the foregoing, Disciplinary Counsel concludes that you violated Rules 1.1(a) and (b), and 1.4(a) and (b).

This letter constitutes an Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8, and is public when issued. We have decided to issue an Informal Admonition because you have agreed to accept it, have cooperated with our investigation, and refunded the fee your client paid. Most importantly, you agree to consult with the D.C. Bar's Practice Management

Bernard A. Gray, Sr., Esquire
Bar Docket No. 2013-D438
Page 3

Advisory Service to conduct a review of your practice to avoid common pitfalls of practice, with particular emphasis on client communication, office administration, and practice management. You agree to waive confidentiality regarding your practice's review and to permit Disciplinary Counsel to use as Disciplinary Counsel deems necessary the results of the review for future reference in any subsequent disciplinary complaint against you.

Please refer to the attachment to this letter of Informal Admonition for a statement of its effect and your right to have it vacated and have a formal hearing before a Hearing Committee. If you would like to have a formal hearing, you must submit a written request for a hearing to the Office of Disciplinary Counsel, with a copy to the Board on Professional Responsibility, within 14 days of the date of this letter, unless Disciplinary Counsel grants an extension of time. If a hearing is requested, this Informal Admonition will be vacated, and Disciplinary Counsel will institute formal charges pursuant to D.C. Bar R. XI, § 8 (c). The case will then be assigned to a Hearing Committee and a hearing will be scheduled by the Executive Attorney for the Board on Professional Responsibility pursuant to D.C. Bar R. XI, § 8 (d). Such a hearing could result in a recommendation to dismiss the charges against you or a recommendation for a finding of culpability, in which case the sanction recommended by the Hearing Committee is not limited to an Informal Admonition.

Sincerely yours,

Wallace E. Shipp, Jr.
Disciplinary Counsel

Encl.: Attachment to Letter of Informal Admonition

cc: CJ, Jr.

WES:TMT:adlt