



OFFICE OF DISCIPLINARY COUNSEL

December 7, 2016

**BY FIRST-CLASS AND CERTIFIED
MAIL NO. 9414 7266 9904 2060 2407 59**

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
Dolores Dorsainvil Nicolas
Sean P. O'Brien
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Clinton R. Shaw, Jr.
H. Clay Smith, III
Traci M. Tait

Senior Staff Attorney
Lawrence K. Bloom
Carol G. Donayre
Jelani Lowery

Manager, Forensic Investigations
Charles M. Anderson

Senior Forensic Investigator
Kevin E. O'Connell

Eduardo F. Justo de Pomar, Esquire
JDPIS, P.C.
P.O. Box 754
Harrisonburg, VA 22803

In re Eduardo F. Justo de Pomar, Esquire
Disciplinary Docket No. 2016-D240
D.C. Bar Membership No. 492823

Dear Mr. Justo de Pomar:

This office has completed its investigation of the above-referenced matter. We find that your conduct reflected a disregard of certain ethical standards under the District of Columbia Rules of Professional Conduct ("the Rules") specifically Rule 7.1(a)(2). We are, therefore, issuing you this Informal Admonition.

On August 11, 2016, we docketed this investigation based upon a complaint from another attorney that references conduct of concern to this office. The Attorney provided us with a copy of a newspaper article you wrote entitled "The Strategy of the Swindler Attorney – Read That You Are Aware." Your article dated December 8, 2015, appeared in Horizontes News, a free Spanish-language newspaper published and distributed in and around Harrisonburg, Virginia, and contained disparaging commentary about the Attorney's and another attorney's law practice. Setting aside any inquiry into the accuracy or truth of your disparaging commentary regarding these lawyers' advice to clients on immigration matters, we found certain statements in your article constituted false or misleading assertions advertising your firm's services in violation of Rule 7.1(a).

The portion of Rule 7.1(a) applicable to this inquiry provides:

- (a) A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

- (2) contains an assertion about the lawyer or the lawyer's services that cannot be substantiated.

Relevant commentary to this Rule states:

[1] It is especially important that statements about a lawyer or the lawyer's services be accurate, since many members of the public lack detailed knowledge of legal matters. . . . Advertisements comparing the lawyer's services with those of other lawyers are false and misleading if the claims cannot be substantiated. (Rule 7.1, [cmt.1]).

In your article, you state that the Attorney has given his clients certain specific legal advice about a particular law that permits them to obtain a work permit which you contend is not true. You further assert that the Attorney "invented this law" and "it does not exist," and advise all who have sought legal counsel from this Attorney on this particular immigration work permit issue (and paid him), to come to you so you get them their money back, stating, "if you have paid [this Attorney] to help you obtain a work permit after having been illegal ten years, visit us to have your money returned."

In the same article, you similarly disparage the work of another attorney for giving clients advice on obtaining residency under certain circumstances in immigration matters which you also assert is incorrect. You, again, invite any readers of your article "who have been a victim of this office to visit [you] to coordinate to have [their] money returned."

In both of these instances you made an improper guarantee: that if the lawyers' clients came to you, you would obtain a refund of the fees they paid the lawyers. This type of guaranteed outcome violates Rule 7.1(a)(2), because there is no way that such a claim can be accurate in the abstract. You could not know whether you could get any of these clients' monies returned without knowing the facts of their cases. See Ethics Opinion 249, at FN3.

In your article, you also improperly make implicit comparisons. By telling your readers that these two attorneys are giving bad legal advice, something a better attorney would presumably know, you imply you are the better immigration attorney. Then, by asserting in your article that the advice these attorneys have given clients is "unprofessional" or "fraudulent" and that those who have received such advice should come to you to get their money returned from these attorneys, you give yourself the imprimatur of being the best immigration attorney of the three to come to for legal advice regarding immigration matters. By implying you will straighten out the clients' immigration issues where others have not, starting with getting their money refunded from these attorneys, you are making precisely the sort of comparative claim that is prohibited by Rule 7.1. See also Rule 7.1, cmt 1.

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Based upon our investigation of this matter, we conclude that your conduct violates Rule 7.1(a)(2), by making misleading communications about your services that cannot be substantiated. In issuing this Informal Admonition, we have taken into consideration several factors: you have taken this matter seriously; you have cooperated with this investigation; you have had no prior discipline; and you have agreed to accept this Informal Admonition.

In issuing this informal admonition, Disciplinary Counsel has taken into consideration that you have cooperated with Disciplinary Counsel’s investigation, and that you have had no prior discipline. This letter constitutes an Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8, and is public when issued. 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 within 14 days of the date of this letter to the Office of Disciplinary Counsel, with a copy to the Board on Professional Responsibility, 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 Rule XI, §§ 8(b) and (c). This 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 Rule XI, § 8(c). Such a hearing could result in a recommendation to dismiss the charge(s) 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,

Wallace E. Shipp, Jr.
Disciplinary Counsel

Enclosure: Attachment letter to Informal Admonition

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