



OFFICE OF DISCIPLINARY COUNSEL

July 20, 2017

Hamilton P. Fox, III
Disciplinary Counsel

Elizabeth A. Herman
Deputy Disciplinary Counsel

Senior Assistant Disciplinary Counsel
Jennifer P. Lyman
Julia L. Porter

Assistant Disciplinary Counsel
Joseph N. Bowman
Carol G. Donayre
Gayle Marie Brown Driver
Jelani C. Lowery
Becky Neal
Dolores Dorsainvil Nicolas
Sean P. O'Brien
Joseph C. Perry
William R. Ross
Clinton R. Shaw, Jr.
H. Clay Smith, III
Traci M. Tait

Senior Staff Attorney
Lawrence K. Bloom
Hendrik deBoer

Manager, Forensic Investigations
Charles M. Anderson

Senior Forensic Investigator
Kevin E. O'Connell

**BY FIRST-CLASS AND CERTIFIED
MAIL NO. 9414 7266 9904 2060 2461 64**

Robert D. Scott, Esquire
c/o Dennis Quinn, Esquire
Carr Maloney PC
2020 K Street, NW
Suite 850
Washington, D.C. 20006

In re Robert D. Scott, Esquire
D.C. Bar Registration No. 425749
Disciplinary Docket No. 2016-D257

Dear Mr. Scott:

This office has completed its investigation of the above-referenced matters. We find that your conduct reflected a disregard of certain ethical standards under the District of Columbia Rules of Professional Conduct (the "Rules"). We are, therefore, issuing you this Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8.

We opened an investigation based on an order of the Probate Division of the D.C. Superior Court denying your amended petition for compensation, and referring your conduct to this office. In the order, the Probate Court found that your amended petition did not comply with the court's earlier orders to (1) correct the mileage rate and separate the mileage expenses by year, and (2) explain the steps you had taken to prevent mistakes in your certifications – you previously had represented that you were current with all required court filings, when in fact you were not. The court further found that your amended petition attached the same inaccurate certification. In referring you to Disciplinary Counsel, the court noted it previously had admonished you to take the "utmost care when making a certification to the court" and warned you that filing a false certificate could result in serious consequences, including sanctions by the court. The court denied your petition for compensation in its entirety, and denied your subsequent motion for reconsideration.

Based on our investigation, we find as follows: You are a member of the Probate Court's Fiduciary Panel of attorneys. For more than a decade, your practice has been limited to probate cases and, in 2016, you were serving as guardian or co-guardian in approximately 10 cases. As required by Administrative Order 04-06, when you filed your annual petitions for compensation in court-supervised cases, you included a certification that you were current in all required court filings.

In the first half of 2016, you filed petitions for compensation in a number of cases, attaching certifications that included the same form language that you were current in all matters. But, at various times in 2016, you were delinquent in making required filings in four matters. Those matters were: (1) *In re CC*, in which you did not file the required criminal background check until January 2016, two months after the deadline; (2) *In re BF*, in which you did not file the guardianship report due in January 2016, until March 2016; (3) *In re RH*, in which you did not file the guardianship report due in May 2016, until August 2016; and (4) *In re GL*, in which you did not file the guardianship plan that was due in May 2016. Thus, your representations in some of the certificates you filed in other matters were incorrect – you were not current in all your filings with the court.

You state that you did not know you were delinquent in these matters, when you represented you were current in all matters. In the case of *In re CC*, you stated that you believed you had to file the MPD and FBI reports with the Probate Court every three years, not in every guardianship. When the court sent you a delinquency notice, you filed the required reports. You acknowledged missing the deadline for filing the guardianship report in *In re RH*, but stated you were preoccupied with the fatal illness and death of an ward who died in May 2016. You filed the required report after the court contacted you about the delinquency. In the matters of *BF* and *GL*, you were serving as co-guardian. You believed that the court's directives and subsequent delinquency notices, which you state you did not receive, were the result of your co-guardians' failure to fulfil certain requirements.

The Probate Division had other problems with your petitions for compensation, including your use of incorrect mileage rates. Although the effect of your using an outdated mileage rate resulted in minimal deductions (less than \$1.00 in all cases), auditors and others in the Probate Division had to expend time and resources to correct your errors. Also, after the Probate Court corrected your petitions and instructed you as to the proper procedures, you continued to file petitions in other cases with incorrect mileage rates. This required the auditors to again correct your calculations in the petition, and explain the deductions to the Probate Court before it could approve the petition, as corrected. Further, in one petition, you miscalculated the total number of hours you spent. The auditors also caught and corrected this error.

You have acknowledged the errors in the petitions and certifications. Your failure to take immediate corrective action when the Probate Court first admonished you about the certifications was unacceptable. However, you eventually took remedial steps to ensure that the problems that

led to the court referral do not recur, including: conducting an inventory of all the matters you have; creating a new diary or calendar system that includes electronic reminders; and taking a six-hour course in technology.

We find that you conduct described above violated Rule 8.4(d). This rule provides that "it is professional misconduct for a lawyer to engage in conduct that seriously interferes with the administration of justice." To violate this Rule, the attorney's conduct must be (1) improper, (2) bear directly upon the judicial process with respect to an identifiable case or tribunal, and (3) taint the judicial process in more than a *de minimis* way. *In re Hopkins*, 677 A.2d 55, 60-61 (D.C. 1996). Your failure to file timely and accurate reports and your false certifications required the Probate Court to expend substantial and unnecessary resources to issue delinquency notices, correct errors in your petitions, schedule hearings, and issue numerous orders to address your conduct. Also, as the court found, because you continued to file false certificates after you were admonished, it was required to expend additional resources to "apply increased scrutiny to your filings."

In deciding to issue you this informal admonition rather than seek a greater sanction, we have considered that you have no prior discipline, you acknowledged your misconduct including by accepting this informal admonition, and you have taken significant remedial steps to avoid any further problems.

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). 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 Rule XI, § 8(c). 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,

Hamilton P. Fox, III
Disciplinary Counsel

Robert D. Scott, Esquire
Disciplinary Docket No. 2016-D257
Page 4

Enclosure: Attachment letter to Informal Admonition

WES:JLP:act