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April 19, 2018

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**VIA FIRST-CLASS AND
CERTIFIED MAIL NO. 9414 7266 9904 2091 4454 75**

Anthony Graham, Sr., Esquire
Smith, Graham & Crump, LLC
7404 Executive Place
Suite 275
Largo, Maryland 20706

Re: *In re Anthony Graham Sr., Esquire*
(D.C. Bar Registration No. 426073)
Disciplinary Docket No. 2013-D222

Dear Mr. Graham:

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

This matter was docketed for investigation upon an ethical complaint filed against you and another lawyer, by your client, Ms. L.¹

In July 2007, Ms. L underwent surgery at George Washington University Hospital and suffered significant injuries because of the alleged negligence of her medical providers. Ms. L originally retained Jenson Barber, Esquire, to prosecute her medical malpractice claim. In September 2009, Mr. Barber unexpectedly passed away before filing Ms. L's claim.

In October 2009, Ms. L hired another attorney to pursue her claim. In or about July 2010, that attorney consulted with you about assisting her in handling the matter. You reviewed Ms. L's file and engaged an expert who determined that Ms. L had a viable claim.

¹ We address our disposition of the ethical complaint filed against the other attorney under the cover of a separate letter.

On October 1, 2010, Ms. L formally retained you to represent her in the matter on a contingent fee basis. Thereupon, she advised you she intended to discharge the other attorney. In response, you advised Ms. L the other attorney would be co-counsel and that a "fee split ... will take place should a recovery be had." You also advised Ms. L that your retainer agreement with her would "supersede (sic) any prior agreement(s), with" the other attorney.

Nonetheless, on October 28, 2010, Ms. L sent a letter to the other attorney discharging her as her counsel. In a letter dated February 8, 2011, you reminded Ms. L of the above-mentioned conversation with her at the time of your retention, and of your understanding that she agreed that the other lawyer could continue as co-counsel. Ms. L replied to your correspondence, by electronic mail, on February 23, 2011, reiterating her desire to discharge the other attorney. In the communication she stated:

"so rather than be misunderstood, I clearly signed a contract for Anthony Graham, Sr., to represent me and if you choose for her to assist you that's your decision, not mine because she has been dismissed on my behalf."

The other attorney did not withdraw from the case.

Ultimately, the medical malpractice action brought for Ms. L was not successful. Consequently, the "fee split" with the other attorney did not become an issue.

Based upon the above described facts we find that your conduct violated Rule 1.5 (e).

Rule 1.5 (e) provides:

A division of a fee between lawyers who are not in the same firm may be made only if:

- 1) The division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;
- 2) The client is advised, in writing, of the identity of the lawyers who will participate in the representation, of the contemplated division of responsibility, and of the effect of the association of lawyers outside the firm on the fee to be charged;
- 3) The client gives informed consent to the arrangement; and
- 4) The total fee is reasonable.

Although it appears that you orally discussed with Ms. L your association with the other attorney, you did not do so in writing as required by Rule 1.5(e)(2). More importantly, Ms. L did not consent to the joint representation. Accordingly, you did not comply with the requirements of

the Rule in associating with the other attorney in your representation of Ms. L.²

In deciding to issue an Informal Admonition, we have taken into account that you cooperated with our investigation and that your conduct did not involve dishonesty, fraud, deceit or misrepresentation.

This letter constitutes an Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8. Once issued, it is public. Attached to this letter is a statement of an Informal Admonition's effects and your right to have it vacated should you choose to pursue a formal hearing before a hearing committee.

If you choose to pursue a formal hearing, you must a written request to the Office of Disciplinary Counsel and provide a copy for the Board on Professional Responsibility within 14 days of this letter, unless Disciplinary Counsel grants an extension of the deadline. If you request a hearing, 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 be assigned to a Hearing Committee. A hearing will be scheduled by the Executive Attorney for the Board on Professional Responsibility pursuant to D.C. Bar Rule XI, § 8(c). The Hearing Committee may recommend dismissing the charges against you or finding you culpable. If you are found culpable, the Hearing Committee's recommended sanction will not be limited to an Informal Admonition.

Sincerely,

Hamilton P. Fox, III
Disciplinary Counsel

Enclosure: Attachment letter to Informal Admonition

cc: Ms. L (w/o enclosure)

HPF:HCS:adlt

² As a division of fees among you and the other attorney never took place, because the civil action was not successful. Nonetheless we find that Rule 1.5 (e) applies in this matter because Rule 8.4(a) provides pertinently that it is professional misconduct for an attorney to "violate or attempt to violate the Rule of Professional Conduct..."