



OFFICE OF DISCIPLINARY COUNSEL

October 24, 2018

BY FIRST CLASS AND CERTIFIED
MAIL NO. 9414-7266-9904-2129-1986-56

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In re Gregory W. Gardner, Esquire
(D.C. Bar No. 499514)
Disciplinary Docket No. 2017-D102

Dear Mr. Gardner:

This office has completed its investigation of you in 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). We are, therefore, issuing you this Informal Admonition pursuant to D.C. Bar R. XI, §§ 3, 6, and 8.

We opened an investigation based upon Mr. Bruce Anton's representation that he permitted you to assist him and his co-counsel draft a habeas petition in Texas for a death row inmate on one condition. The condition was that you include both of them in any communications that you had with the client. You acknowledged this condition, agreed to it, and told the client of this condition. However, you very quickly breached this condition by emailing and talking to the client without the knowledge or participation of your co-counsels. They sponsored your *pro hac vice* admission in Texas believing that you would honor your agreement.

You assisted both co-counsel with the habeas petition and particularly focused on one issue concerning hypnosis. After the habeas petition was filed, the court ordered a stay of execution and the case was remanded for further proceedings. Soon after remand, you contacted Mr. Anton and advised him that the client wished to have Mr. Anton withdraw from the case. You further stated that the client wrote a letter requesting Mr. Anton's withdrawal. You stated that this letter was written "without [your] input or direction." This was not an accurate statement; you had counseled the client about his letter requesting the withdrawal.

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You state that you did not honor your agreement not to communicate with the client unless co-counsel were a part of the communication because you believed that the client wished to communicate with you confidentially. If that were true, you should have informed the client that you could not have such communications in view of your prior commitment to co-counsel or you had the option of informing co-counsel of the client's wishes. You took neither of these options but allowed co-counsel to believe that you were honoring the commitment you had made. This conduct violated Rule 8.4(c).

Your denial that you had any input into the client's termination letter is incorrect and inaccurate and violates Rule 8.4(c).

In deciding to issue this letter of Informal Admonition rather than institute formal disciplinary charges against you, we have taken into consideration that you took this matter seriously, cooperated with our investigation, and have accepted responsibility for your misconduct, including by accepting this Informal Admonition. You also have no disciplinary history.

This letter constitutes an Informal Admonition for your violation of the Rules, pursuant to D.C. Bar R. 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 you request a hearing, this Informal Admonition will be vacated, and Disciplinary Counsel will institute formal charges pursuant to D.C. Bar R. XI, § 8 (b). 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 (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

Encl.: Attachment to Letter of Informal Admonition

cc: Bruce Anton, Esquire

HPF:EAH:eaf