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November 14, 2018

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**BY FIRST CLASS AND CERTIFIED
MAIL NO. 9414-7266-9904-2129-1978-64**

Peter F. Asaad, Esquire
c/o Thomas B. Mason, Esquire
Lauren E. Snyder, Esquire
Harris Wiltshire & Grannis
1919 M Street, N.W., Suite 8
Washington, D.C. 20036

Re: Peter F. Asaad, Esq.
D.C. Registration No. 483977
Disciplinary Docket No. 2017-D203

Dear Mr. Asaad:

The District of Columbia Office of Disciplinary Counsel ("the 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"). We are, therefore, issuing you this Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8.

This matter was docketed for investigation on August 10, 2017, after Capital One notified the Office that the trust account you established for Immigration Solutions Group ("ISG"), your former law practice, was overdrawn. Based upon our investigation of this matter, we find that your conduct violated Rules 1.15(a) and 8.4(c).

You state that you had closed ISG and joined another law firm in late 2016, and that you were attempting to properly close out ISG's Interest on Lawyer's Trust Account (IOLTA) account. At the time, the only funds in the account were \$2418 in entrusted funds for one client, that you intended to transfer over to your new firm with the consent of your client, and approximately \$468 of earned fees. You concede that, by mistake, you withdrew your earned fees twice.

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Your double withdrawal of earned fees caused the check you wrote to your new firm to be returned for insufficient funds. You wrote one additional check to your new firm's IOLTA account attempting to transfer your client's entrusted funds. That check was also returned for insufficient funds because in the interim the bank had deducted accrued interest for payment to the D.C. IOLTA program. Ultimately, you transferred the remaining funds to your new law firm's IOLTA account, but the amount was less than the \$2418 you were holding in trust.

You had told your client that you would be transferring \$2418 to your new firm's IOLTA account and did not replace the deficit or otherwise inform the client that you transferred less than that amount. Although we credit your explanation that you intended to replace the funds, you admit that you had not done so by the time our Office notified you that we were aware of the overdrafts. You replaced the funds after being notified by our Office of the overdrafts.

Ultimately, we find that you only took out fees that were earned. You admit, however, that you failed to keep adequate records. Specifically, most of your work involved representation where clients paid a flat fee for the immigration-related services provided by ISG. Only a small percentage of your work involved clients paying you an hourly fee. The work you were doing for the client whose funds remained in ISG's IOLTA was hourly work, and you concede that, because the work was infrequent and intermittent, you did not always record the time you spent on the client's work. You also concede that you did not keep records that would explain all deposits into and withdrawals from ISG's IOLTA, including those involving the client whose funds were involved in the overdrafts.

Based upon our investigation of this matter, we find that your conduct violated Rules 1.15(a) and 8.4(c).

Rule 1.15(a) states in relevant part, "Funds of clients . . . shall be kept in [trust accounts. And] [c]omplete records of such account funds . . . shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation." Similarly, D.C. Bar R. XI, § 19(f) requires lawyers to "maintain complete records of the handling, maintenance, and disposition of all funds . . . belonging to another person . . . at any time in the attorney's possession, from the time of receipt to the time of final distribution" and also requires that the records be preserved for five years. In *In re Clower*, 831 A.2d 1030 (D.C. 2003), the Court explained that:

The purpose of maintaining "complete records" is so that the documentary record itself tells the full story of how the attorney handled client or third-party funds and whether the attorney complied with his fiduciary obligation that client or third-party funds not be misappropriated or commingled. Financial records are complete only when documents sufficient to demonstrate an attorney's compliance with his ethical

duties are maintained. The reason for requiring complete records is so that an audit of the attorney's handling of client funds by Bar Counsel can be completed even if the attorney or the client, or both, are not available.

831 A.2d at 1034. By failing to keep adequate, complete and accurate time records and failing to keep accurate deposit and withdrawal trust account records, we find that you violated Rule 1.15(a).

Rule 8.4(c) provides in relevant part, "It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty [or] misrepresentation[.]" You properly informed the client that you would be transferring entrusted funds to your new firm's IOLTA. By failing to promptly replace the funds and/or disclose to the client that you had not transferred the full \$2418, we find that you violated Rule 8.4(c).

Disciplinary Counsel has determined that an informal admonition is the appropriate sanction given several mitigating factors, including: that you have cooperated in the Office's investigation; that you acknowledge your misconduct; that a relatively small amount of money was involved; that you did not act for personal financial gain; that your client was not prejudiced; that your acts or omissions did not arise out of malicious intent; that your client agreed you had already earned an amount greater than what you mistakenly took, and thus there was no misuse of client funds; that you do not handle client funds at your new firm, rather your new firm has systems in place to ensure accurate recordkeeping and accounting; and your lack of prior discipline over a period of 14 years of practice.

Moreover, you have presented evidence of your extensive efforts to guide, assist and educate the immigration Bar, as well as your long record of direct pro bono service in your field and active promotion of broader access to pro bono legal services. You have stated that during the relevant period you were under considerable stress due to the illness and death of a close family member. You have taken steps to understand the requirements of Rule 1.15, through CLE programs and self-study. We have also considered that, by agreeing to accept this informal admonition and by agreeing to take an additional 2 hours of CLE on the proper handling of entrusted funds within six months of the date of this Informal Admonition,¹ you demonstrate your willingness to accept responsibility for your misconduct.

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.

¹ The CLE course(s) must be taken in-person and be pre-approved by this Office. You must submit proof of attendance within ten (10) days of the course(s).

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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 Rule 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 Rule 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,

Hamilton P. Fox, III
Disciplinary Counsel

Enclosure: Attachment to Letter of Informal Admonition

HPF:JUD:eaf