



# OFFICE OF DISCIPLINARY COUNSEL

February 6, 2020

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**SENT VIA FIRST-CLASS AND  
CERTIFIED MAIL NO. 9414 7266 9904 2144 5112 67**

**CONFIDENTIAL**

Gary T. Brown, Esquire  
320 Maryland Ave., N.E.  
Washington, D.C. 20002

Re: *In re Gary T. Brown, Esquire*  
Disciplinary Docket No. 2018-D266

Mr. Brown:

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"). We are therefore issuing you this Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8.

On November 7, 2018, this matter was opened for an investigation of the ethical complaint filed against you by your former client, Marlon Wise. Mr. Wise states that he received an arbitration award from the District of Columbia Bar's Attorney/Client Arbitration Board ("ACAB") on October 7, 2016 in the amount of \$10,865. The D.C. Superior Court entered judgment against you in the amount of \$10,865, plus interest at the rate of 6% per annum from the date of November 7, 2016. Mr. Wise reported that you had not satisfied the judgment.

You submitted a response reporting that you paid Mr. Wise on June 9, 2019 in the amount of \$12,758.88, representing the judgment plus interest. Mr. Wise confirmed receipt of the check you sent to him.

Based upon our investigation, we find that you violated Rule 1.16(d), which provides pertinently:

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“In connection with any termination of representation, a lawyer shall take timely steps to the extent reasonably practicable to protect a client’s interests, such as . . . refunding any advance payment of fee or expense that has not been earned or incurred.”

In the ACAB matter, Mr. Wise sought a refund of \$19,900.00 of the legal fees he paid to you. On November 7, 2016, the ACAB determined that Mr. Wise was entitled to a refund of \$10,865.00. On July 24, 2018, the Superior Court affirmed the award, and you did not appeal the court’s judgment. Accordingly, you were obliged to timely refund Mr. Wise the unearned fees. Although you ultimately refunded Mr. Wise the award in June 2019, we find that it was the ethical complaint that he filed against you that motivated you to satisfy the award. Moreover, we find that eleven months was not timely and constitutes clear and convincing evidence of a violation of Rule 1.16(d). *See In re Ekekwe Kaufman*, BDNos. 2013-D393, *et al.* H.C. Rpt., June 20, 2019 at 40. (two months to refund unearned fee untimely and a violation of Rule 1.16(d)), adopted, BPR, Brd. Dkt. No. 16-BD-039, December 20, 2019.

We are also troubled by the eleven-month delay between the date we opened our investigation until the date you first submitted a response. *See In re Cater*, 887 A. 2d 1, (D.C. 2005) (failure to cooperate with Bar (“Disciplinary”) Counsel’s investigation violated Rule 8.4(d)). Nonetheless, you did communicate with our office during the investigation and ultimately satisfied the ACAB’s award to Mr. Wise. Consequently, we do not find that the delay raises to the level of a violation of the Rule.

In considering whether to issue you this Informal Admonition, rather than bringing disciplinary proceedings against you we have considered that this case did not involve dishonesty, fraud, deceit or misrepresentation. We caution, however, that our decision not to initiate formal disciplinary proceedings was close and does not in any way condone your failure to promptly pay the award to Mr. Wise or to promptly respond to our investigation for nearly seven months.

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

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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 letter to Informal Admonition

cc: Mr. Marlon Wise (w/o enclosure)

HPF:HCS:ipm