THE FOLLOWING INFORMAL ADMONITION WAS ISSUED
BY BAR COUNSEL ON
April 2, 2004

Paul D. Hunt, Esquire
4614 Wissahican Avenue
Rockville, Maryland 20853

Re: In re Hunt; Bar Docket No. 2003-D419

Dear Mr. Hunt:

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 Rule XI, Sections 3, 6, and 8 of the District of Columbia Court of Appeals' Rules Governing the Bar ("D.C. Bar R.").

We docketed this matter for investigation on November 21, 2003, based upon a complaint filed against you by your former client. Your former client retained you in 2002 to seal his arrest record in a District of Columbia criminal matter ("the criminal matter"). Your client alleged that you handled the matter incompetently. Specifically, your former client stated that you disregarded information that he had made a previous *pro se* motion to seal his arrest record, which the government opposed and the court denied. Your former client contends that the court denied the motion you filed on his behalf because you failed to take his previous attempt into account.

In 1988, your former client was arrested and charged with a criminal offense in the District of Columbia. The charge was subsequently dismissed. On September 15, 1997, your former client filed a *pro se* motion in the Criminal Division of the Superior Court of the District of Columbia ("the court") to have his arrest record in the criminal matter sealed ("the 1997 motion"). The prosecutor objected to the motion as untimely. On February 10, 1998, the court denied your former client's motion.

In 2002, your former client retained you to seal his arrest record in the criminal matter. Your former client provided this office with a copy of an undated receipt that you signed documenting a payment of $290 for your fee and associated costs. On August 22, 2002, you filed a motion with the
court to seal your former client's arrest record in the criminal matter ("the 2002 motion"). On December 16, 2002, the prosecutor objected to the motion as untimely. On January 6, 2003, the court denied the motion.

Your former client claimed that prior to your filing the 2002 motion, he informed you that he had filed the 1997 motion, that the prosecutor objected to it as untimely, and that the court ultimately denied it. You claim that "[your] recollection is clear that [your former client] did not . . . reveal that he had filed [the 1997 motion]." You further state that "[even] if . . . [your former client] did . . . tell [you] that he had previously filed [the 1997 motion] . . . , [you] would have taken the exact same course of action and filed the [2002] motion [exactly] as [you did,] . . . because the government . . . often [does] not file oppositions [to motions to seal arrest records,] . . . and that the failure of the government to respond to [an order to respond to a motion to seal an arrest record] could result in his achieving his goal[]."

Rule 1.1 states that "[a] lawyer shall provide competent representation to a client . . . [and] serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters." Rule 1.4(b) states that "[a] lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Super. Ct. Crim. R. 118 states in pertinent part:

> Any person arrested for the commission of an offense . . . , whose prosecution has been terminated without conviction and before trial, may file a motion to seal the records of the person's arrest within 120 days after the charges have been dismissed. For good cause shown and to prevent manifest injustice, the person may file a motion within 3 years after the prosecution has been terminated, or at any time thereafter if the government does not object. . . . The motion shall state facts in support of the movant's claim and shall be accompanied by a statement of points and authorities in support thereof. The movant may also file any appropriate exhibits, affidavits, and supporting documents. . . . Upon the filing of the [government]'s response, the Court shall determine whether an evidentiary hearing is required.

The 2002 motion that you filed on your former client's behalf does not allege facts to establish "good cause" for the court to grant the relief nor state how the relief would "prevent manifest injustice." Furthermore, the 2002 motion you filed is not supported by

an accompanying statement of points and authorities as required by Super. Ct. Crim. R. 118. The 2002 motion merely states that the criminal charges against your former client were dismissed, and that "clear and convincing evidence demonstrates that [your former client] did not commit the offense charged."

A competent lawyer would not rely solely upon his client's recollection regarding whether he had previously sought and was denied the relief in question. Rather, a competent attorney would have interviewed his client thoroughly and carefully examined the available court records to determine the history of his client's legal case, the most probable means of achieving relief, and the likelihood of success. Moreover, a competent attorney, upon determining a very low likelihood of success, would have advised his client of such, or in the alternative, elected not to continue the representation.

Had you thoroughly interviewed your former client and carefully examined the available court records, you would have learned of the unsuccessful 1997 motion and determined that a similar motion would likely be denied unless the court was provided persuasive evidence and argument. If there was not any persuasive evidence or argument to present, you should have advised your client, so that he could make an informed decision regarding his legal options. Instead, you accepted your former client's $290 and filed a one-page, double-spaced, 13-line motion which included scant argument and no supporting evidence, despite the requirements clearly set forth by Super. Ct. Crim. R. 118. You apparently relied upon the unlikely chance that the prosecutor would not object, without informing your client that this was your only legal strategy. Thus, we find that your actions violated Rule 1.1 and Rule 1.4(b).

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 Bar Counsel, with a copy to the Board on Professional Responsibility, unless Bar Counsel grants an extension of time. If a hearing is requested, this Informal Admonition will be vacated, and Bar 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,

Joyce E. Peters
Bar Counsel

Encl: Attachment to Letter of Informal Admonition

VIA Regular & Certified Mail
No. 7160-3901-9848-0251-8028

JEP:JNB:MP:dcw