

**THE FOLLOWING INFORMAL ADMONITION WAS ISSUED
BY BAR COUNSEL ON
DECEMBER 3, 2001**

Douglas B. Evans, Esquire
9224 Edwards Way
Suite 3449
Adelphi, Maryland 20783

Re: Evans/Bar Counsel
Bar Docket No. 199-01

Dear Mr. Evans:

This office has completed its investigation of the above-referenced matter. Because your conduct reflected a disregard of certain ethical standards under the District of Columbia Rules of Professional Conduct (the "Rules"), we are issuing you this Informal Admonition pursuant to Rule XI, §§ 3, 6, and 8 of the District of Columbia Court of Appeals' Rules Governing the Bar.

On March 23, 2001, this office received a letter from Ms. Kitt concerning your failure to transmit the client file in her son's case to successor counsel. She attached to her letter a show cause motion filed by successor counsel outlining her attempts to obtain the file from you, the Court's order appointing successor counsel and ordering you to transmit the file forthwith and copies of letters sent to you from successor counsel requesting the file.

On May 14, 2001, we docketed this matter and requested a response from you within 10 days. On May 24, 2001, you responded. You state that you scheduled a meeting with successor counsel on March 23, 2001, to deliver the file but that successor counsel was not at the meeting place when you returned with the file. You further state that you then made arrangements to have the file copied which was completed on March 27, 2001. You state that you mailed a copy of the file to successor counsel on March 27, 2001 by regular mail. When you were notified that successor counsel never received the copy, you sent another copy on May 23, 2001 by FedEx.

On August 9 and 31, 2001, Bar Counsel addressed further questions to you concerning this matter. On October 12, 2001, this mail was returned to Bar Counsel as undeliverable. Although Bar Counsel left messages on your home answering machine and with your office receptionist, we received no response from you. Bar Counsel delivered the letters by personal service. On October 16, 2001, you responded to Bar Counsel's letters. We requested an explanation of the delay between the Court's January 30, 2001 order to transmit the documents to successor counsel forthwith and your first attempt to deliver them on March 23, 2001. You state that although successor counsel went to your apartment to retrieve the file you informed him that you were "getting the file together."

You further state that you agreed to bring it to new counsel's office on another date but did not do so.

Bar Counsel requested information on the transcripts in the Kitt matter. You state that you believed that you ordered the transcripts but that you never obtained them and you intend to make a refund to the Kitts.

We find as follows: We find that you violated Rules 1.1(a) and (b). The only way a retained attorney may order a transcript in a criminal matter on appeal to the Court of Appeals of the District of Columbia is to pay a deposit on its cost. Although you were paid a retainer fee that included funds for the cost of transcripts, you failed to pay a deposit for the transcription of the transcripts and failed to obtain them. During the approximately two and a half years that you were appellate counsel, you should have taken steps to resolve this situation. We find that your failure to appreciate how to order a transcript as retained counsel and to take the necessary steps to obtain them violates Rules 1.1(a) and (b).

We also find that you violated Rule 1.16(d). You have failed to return any funds to the Kitts although a portion of the funds paid to you were to cover the costs of the transcripts. Rule 1.16(d) requires an attorney, after his services are terminated, to take timely steps to protect a client's interests, such as refunding any advance payment of an unearned fee. Your services were terminated on January 30, 2001. As of the date of this letter, you have failed to return any funds to the Kitts although you concede that you owe them money.

We further find that you violated Rule 1.16(d) by your failure to timely deliver the file to successor counsel. Despite the Court's order and successor counsel's multiple attempts to obtain the file from you, you did not transmit it. Any delay in transmitting the file of an incarcerated client pending appeal is not in the client's interests. Your lengthy delay, of several months, is unacceptable and violates this Rule.

We do not find a violation of Rule 8.4(d), although the Court held hearings on June 25 and 29, and July 13, 2001, to resolve whether the file had been delivered and if so, whether what was transmitted included the entire file. The Court discharged the show cause order and found that at least by the date of the hearings the entire file in your possession had been delivered.

We do not find a violation of Rules 8.4(c) or 3.3(a)(1), although you made statements in your pleadings to the Court that give the impression that you had properly ordered Mr. Kitt's transcript when you had not done so. We find that this failure was one of incompetence and neglect rather than an intentional misrepresentation to the Court.

This letter constitutes an Informal Admonition pursuant to Rule XI, §§ 3, 6, and 8 of the Rules of the District of Columbia Court of Appeals Governing the Bar. Please refer to the

Douglas B. Evans, Esquire
Evans/Bar Counsel, Bar Docket No. 199-01
Page 3

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. 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.

This Informal Admonition will become public 14 days from the above date, if you do not request a hearing. If you wish to have a formal hearing, you must submit a request in writing to the Office of Bar Counsel, 515 Fifth Street, NW, Building A, Room 127, Washington, DC 20001, with a copy to the Board on Professional Responsibility, within 14 days of the date of this letter, unless Bar Counsel grants an extension.

Sincerely,

/s/

Joyce E. Peters
Bar Counsel