



# OFFICE OF BAR COUNSEL

November 3, 2014

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***VIA CERTIFIED MAIL NO. 7196 9008 9111 1220 3039  
AND FIRST-CLASS REGULAR***

J.B. Dorsey, III, Esquire  
Attorney at Law  
146 Tennessee Avenue, N.E.  
Washington, D.C. 20002

***In re J.B. Dorsey, III, Esquire***  
Bar Docket No. 2011-D011

Dear Mr. Dorsey:

The Office of Bar Counsel 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 R. XI, §§ 3, 6, and 8.

***The Disciplinary Complaint and Your Response***

We docketed this matter after referral from the District of Columbia Superior Court. We find as follows: On November 9, 2009, DeSMB died intestate after being struck by a vehicle and failing to survive her injuries. DeSMB lived in the District of Columbia and left as heirs her two minor children. Also surviving her were DeSMB's mother VW and her sister MW.

MW retained you to assist her in correctly filing probate documents for her sister's estate in order to pursue wrongful death litigation. You prepared the probate documents on her behalf. On December 18, 2009, MW filed a Petition for Probate Without a Will. The petition alleges that the decedent's mother VW resided in the District of Columbia. MW also filed a *Renunciation, Nomination of Personal Representative and Waiver of Bond* purportedly signed by VW. However, VW had not signed the Renunciation.

Other than the potential proceeds of a settlement or judgment resulting from a civil suit, the estate contained only \$600 in personalty. As is customary in estates where there is litigation and few assets, you provided a guarantee of the court costs and publication fees. On December 24, 2009, the court appointed the decedent's sister MW personal representative of the estate. After MW failed to file a required document due on March 24, 2010, the Superior Court set a summary hearing for April 30, 2010. Neither you nor your client appeared. VW appeared and testified that she did not live in the District of Columbia and that she had not signed the Renunciation. The court set a show cause hearing for May 21, 2010.

You and VW appeared at the May 21, 2010 hearing, but your client MW did not. You advised the court that your client wished to withdraw as personal representative and that you were having difficulty contacting her. The court continued the hearing to June 18, 2010. You appeared with your client MW at this hearing, but VW did not. At the hearing, you represented that, during a telephone conversation that occurred in your presence, VW gave MW authorization to prepare the necessary probate documents.<sup>1</sup> Because VW was not present for the hearing, the court continued the matter to July 23, 2010. You attended that hearing, but neither your client nor her mother attended. You asked to be removed as counsel, but the court rejected your request and continued the matter to August 20, 2010, issuing subpoenas for MW and VW to appear.

You appeared at the August 20, 2010 hearing, as did MW and VW. VW testified that her daughter MW had handled most of the matters related to DeSMB's death and reiterated that she had not signed any probate documents. MW testified that her mother had given permission to file the appropriate paperwork and had authorized either MW or you to execute the Renunciation in her name.<sup>2</sup> On August 30, 2010, you filed with the court an affidavit stating that VW had given MW permission to sign probate documents on her behalf and that no fraud had been committed. The court ultimately referred the matter to Bar Counsel.

In response to Bar Counsel's investigation, you state that neither you nor MW made any misrepresentations to the court. You state that VW authorized you and MW by telephone to execute the Renunciation on her behalf.

Bar Counsel discussed your version of events with the Probate Division, which pointed out that the court had no way to know that VW not reviewed and accepted the consequences of the

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<sup>1</sup> The conversation occurred during a telephone conversation with your client, who telephoned her mother VW while you remained on the line.

<sup>2</sup> We are unable to establish who signed the Renunciation: MW testified that she believed you signed it; you stated to Bar Counsel that she signed it. Bar Counsel does not resolve this factual question because it has no impact on the analysis of the facts or on the outcome of the investigation.

Renunciation. The Probate Division informed Bar Counsel that if it had known that VW had not reviewed and executed the Renunciation, it would have insisted that the matter proceed through standard probate (which entailed a waiting period before appointment of a personal representative), rather than the more abbreviated process of appointing MW immediately upon receiving the Renunciation.

### **Legal Analysis**

Rule 8.4(d) states that “[i]t is professional misconduct for a lawyer to . . . engage in conduct that seriously interferes with the administration of justice[.]” Bar Counsel concludes that by knowingly filing the Renunciation with a signature other than that of the purported signer with no indication that it was a false signature (whether with authority or not), you violated Rule 8.4(d), because the court was deprived of important information that would likely have affected how it handled the estate.

### **Mitigating Factors**

We have determined it appropriate to issue you an Informal Admonition rather than instituting formal proceedings because (1) you cooperated with our investigation; (2) your office did not have experience in probate matters and intended to pursue wrongful death litigation rather than become involved in probate proceedings; (3) you attempted to remove yourself from the proceedings when you realized you could not resolve the issues that arose between MW and VW; (4) your client did not suffer any prejudice, confirmed your version of events to the court, and has not made any complaints against you; and (5) it is likely that you had been given permission to execute the Renunciation in question when it was signed and filed, even if the permission was later revoked.

### **Conclusion**

This letter constitutes an Informal Admonition pursuant to D.C. Bar R. XI, §§ 3, 6, and 8, and is public when issued. We have attached a statement of its effect and your right to have the Informal Admonition 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 to the Office of Bar Counsel, with a copy to the Board on Professional Responsibility, within 14 days of the date of this letter, 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(c). The case will then be assigned to a Hearing Committee, and a hearing will be scheduled by the Board’s Executive Attorney, pursuant to D.C. Bar R. XI, § 8(d). A hearing could

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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,

Wallace E. Shipp, Jr.  
Bar Counsel

Encl.: Attachment to Letter of Informal Admonition

WES:TMT:MBW:pjp

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