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June 9, 2016

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John P. Mahoney, Esquire
Ronald Reagan Building & ITC
1300 Pennsylvania Ave., NW
Suite 700
Washington, D.C. 20004

In re John Mahoney, Esquire
Bar Docket No. 2015-D141
D.C. Bar Membership No. 442839

Dear Mr. Mahoney:

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

We docketed this matter for investigation in May 2015, based on a complaint by a former client. The client's principal complaint was that your fees were excessive. She claimed that she had prepared most of the documents you submitted on her behalf and you billed her an inordinate number of hours to proof or edit the documents, but did not advise her that a concise account of the discrimination she suffered would suffice. She further alleged that the expenses you charged were unwarranted and unnecessary. The client also was critical of your representation of her during the mediation, including the settlement demand that you made on her behalf. She claimed that you were verbally abusive, leading to her terminating the relationship.

After the attorney-client relationship ended, the client posted comments about you on a website in which she was highly critical of you and the representation you provided. You responded to her comments and, in doing so, revealed specific information about her case, her emotional state, and what transpired during your attorney-client relationship — although you did not identify the client by name.

In investigating the client's complaint, this office had numerous communications with the client. We also spoke to opposing counsel concerning some of the matters that the client raised, including the settlement offer you made before the mediation, and the mediation with the employer's representative and counsel. Based on our investigation, we do not find evidence to support the client's allegations that you charged excessive fees, that you provided incompetent representation, or that the settlement offer was unreasonable or unauthorized (although it did include a typographical error, which opposing counsel confirmed did not lead to any misunderstanding).

We do find, however, that in including detailed information about your client and the client's case in your responses to her website postings, you violated your obligations under Rule 1.6 to protect her confidences and secrets – obligations that continued after the attorney-client relationship ended. See Rule 1.6(g). The information that you included in your responses to the client's posts included information about the client and the client's case that were protected under Rule 1.6. Although you did not refer to the client by name, you included the name of the client's employer, the dates on which certain events occurred, and other detailed information that could lead back to your former client. You did not have the client's consent to publish or disclose this information. Nor did your disclosures fall within any of the exceptions to Rule 1.6, including the exception under 1.6(e)(3) that permits a lawyer to use or reveal client confidences or secrets "to the extent reasonably necessary to establish a defense to a criminal charge, disciplinary charge, or civil claim, *formally instituted against the lawyer . . .*" (emphasis supplied).

We also find that you violated Rule 8.4(c) when you posted a further response on the website concerning Disciplinary Counsel's investigation of the client's allegations and Disciplinary Counsel's statements. Specifically, although Disciplinary Counsel advised you that your postings on the website about the client were inconsistent with your obligations under Rule 1.6, you posted another response on the website stating that Disciplinary Counsel had "clear[ed]" you and quoted a sentence from a letter that omitted information about the Rule 1.6 violations that we found meritorious. You claimed that your further response was intended to respond only to your client's allegations repeated on the website. Your response, however, did not include any such limitation or disclaimer and omitted a material portion of the sentence you quoted. Your further posting on the website was, at best, misleading and violated your obligations under Rule 8.4(c).

In deciding to issue you an informal admonition rather than filing charges and seeking a greater sanction, we have considered the following: you have no prior discipline; you cooperated with this office's investigation, including by providing prompt and thorough responses to all our inquiries; you have accepted responsibility for your misconduct, including by agreeing to accept this informal admonition; and you have agreed within the next year to attend at least three hours of pre-approved CLE focusing on a lawyer's obligations under Rule 1.6, and provide written proof of your attendance within 10 days of your completion of the course or courses. If you fail to

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provide written proof of your attendance, Disciplinary Counsel reserves the right to rescind the Informal Admonition and file charges against you.

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 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,

Wallace E. Shipp, Jr.
Disciplinary Counsel

Enclosure: Attachment to Letter of Informal Admonition

cc (w/o Encl.): Client-Complainant

WES:JLP:act