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November 14, 2018

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Disciplinary Counsel

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BY FIRST CLASS AND CERTIFIED
MAIL NO. 9414-7266-9904-2129-1968-36

Iris McCollum Green, Esquire
Green & Foushee
1730 M Street, N.W.
Suite 609
Washington, DC 20036-4843

Re: Iris McCollum Green, Esquire
(D.C. Bar Registration No. 932590)
Disciplinary Docket No. 2017-D314

Dear Ms. Green:

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

We docketed this matter based upon a complaint by your former client (SP) that you failed to promptly comply with her numerous requests for an invoice, and thereby failed to keep her reasonably informed about the status of her indebtedness for your legal services.

Pertinent Facts

On April 29, 2011, the U.S. Postal Service notified SP that her employment would be terminated for cause on May 6, 2011. The USPO's letter stated that she had fifteen days from the date of receipt to submit a written appeal of its decision, or until May 17, 2011.

On May 12, 2011, SP retained you to represent her regarding her termination from the Postal Service. According to the retainer agreement, your hourly rate was \$275, and SP agreed to pay an initial retainer of \$1,500. The retainer agreement also provided that you would send monthly invoices to SP for your services.

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You prepared an appeal of the Postal Service's decision to terminate SP's employment and faxed it to the Office of General Counsel & Executive Vice President before midnight on May 17, 2011. However, on May 24, 2011, the General Counsel's Office dismissed the appeal as untimely.

You advised SP that the matter should be appealed to the United States District Court. On May 24, 2011, SP executed a second retainer agreement for that purpose, whereby she agreed to pay you \$325/hour, plus expenses. Unlike the May 12, 2011 agreement, there was no requirement that you provide monthly invoices to SP.

On June 29, 2011, you filed a civil complaint in the United States District Court for the District of Columbia against the Postal Service on behalf of SP. After extensive briefing by the parties, the district court granted the defendants' motion to dismiss. You filed a timely notice of appeal on April 5, 2012.

According to e-mail correspondence between you and SP, there had been some discussion of your fees and amounts that SP owed to you. In an August 21, 2012 e-mail to you, SP stated, "I am still in need of the itemized cost of your services as requested in my April 13, 2012 e-mail." You did not respond to SP's reasonable request for information.

Six months later, SP sent another e-mail, stating,

I am also again asking for an itemized billing for your services rendered to date which I originally requested [in] April 2012. In April you stated that I was not allowing sufficient time for your response within 7 days. To date, I still have not received this information. Can you state by which date I can expect to receive this information?

Again, you did not respond to SP's reasonable request for information regarding her legal fees.

On May 7, 2013, while the matter was pending before the United States Court of Appeals, and after oral argument, the Postal Service notified you by letter that it had "decided to accept [SP's] request for appeal," that it "will assign a hearing officer to [SP's] appeal," and that its earlier letter "regarding the timeliness of your request for a hearing is hereby rescinded." Accordingly, the Court of Appeals dismissed the appeal as moot.

On June 18, 2013, SP sent an e-mail to you stating, "I have not to date received an itemized bill despite my request over a year ago. A written response will be greatly appreciated."

On July 1, 2013, you filed a petition for attorney's fees and costs with the D.C. Circuit Court of Appeals, seeking attorney's fees in the amount of \$43,448.38 and costs in the amount of \$1,206.79. You based the request on an hourly rate of \$187.52 – the statutory rate under the Equal Access to Justice Act. You attached to the petition an accounting for the legal services you rendered in the district court and the circuit court, which showed 230 hours of legal representation, plus itemized costs. You provided a copy of the accounting to SP, and SP provided an affidavit assigning “any fees awarded in this case to my attorney, Iris McCollum Green, Esquire of Green & Foushee.” Unfortunately, the Court denied the fee petition on August 21, 2013.

Ultimately, you prevailed on the agency appeal of SP's wrongful discharge claim, and on December 17, 2013, the USPO issued the following letter to SP:

This is to inform you of your reinstatement to the position of Sales Support Account Management Specialist, EAS-21, in the Sales Operations and Planning group at the United States Postal Service Headquarters You annual salary will be \$71,539.

On October 3, 2017, you sent an invoice to SP for \$87,424.97. This was the first invoice SP had received from you, despite that you had been representing her since May, 2011, and despite that SP had made numerous requests for an invoice. In a subsequent telephone call and follow-up e-mail, SP told you that she could not pay that amount. On January 12, 2018, you filed a civil complaint against SP in the Superior Court, requesting “damages in the amount of \$86,424.97 and costs in the amount of \$544.22 for a total of \$87,424.97.”

Conclusion

We find that your conduct in this matter violated Rule 1.4, pertaining to a lawyer's responsibility to communicate with her client.

Rule 1.4(a) provides that “A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.” Comment [1] to Rule 1.4 states that, “The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.”

Despite SP's numerous requests, some of which are documented in the e-mail correspondence, you did not “promptly” provide SP with an accounting or invoice for your legal services. In fact, you did not provide SP with an accounting until July 1, 2013, fifteen months after her first documented request in April, 2012, and that accounting was an attachment to a fee petition that you filed with the appellate court and was calculated at \$187.52, not the \$325/hour that the May 24, 2011 retainer agreement.

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In issuing this informal admonition, Disciplinary Counsel has taken into consideration that you have co-operated with its investigation, and that you accept responsibility for your actions by accepting this informal admonition.

This letter constitutes an Informal Admonition pursuant to D.C. 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,

Hamilton P. Fox, III
Disciplinary Counsel

Encl.: Attachment to Letter of Informal Admonition

HPF:JNB;eaf