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November 14, 2019

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**SENT VIA FIRST-CLASS AND
CERTIFIED MAIL NO. 9414 7266 9904 2144 5107 54**

CONFIDENTIAL

Kellee G. Baker, Esquire
KB Law Firm
10804 Sugar Maple Terrace
Largo, MD 20774

Re: *In re Kellee G. Baker, Esquire*
Disciplinary Docket No. 2017-D133

Dear Ms. Baker:

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

This matter was docketed for investigation upon the ethical complaint filed against you by E.S. and her attorney, M.L., arising from your conduct in civil litigation against them.

A substantial portion of your practice involves landlord-tenant law. In 2012, you spoke with Mr. James Sumner about his rights as a tenant of a property in Washington, D.C., that was subject to foreclosure. In 2014, Mr. Sumner informed you that the property was foreclosed upon and that he had received an eviction notice from the foreclosure purchaser. You agreed to represent him, *pro bono*. The ensuing litigation became protracted and acrimonious. During the litigation, issues were raised concerning the legitimacy of Mr. Sumner's lease agreement, whether he had a legal right to purchase the property, whether you had a conflict of interest, and compliance with various discovery requests.

On August 13, 2014, plaintiff's counsel extended a settlement offer giving your client an opportunity to purchase the property. The plaintiff's offer pertinently provided that the sale would be a "cash deal, for \$387,500" with several conditions.

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Shortly after the settlement offer was extended, you undertook to list the property for sale for the price of \$400,000. The listing disclosed that “this sale is part of a lawsuit settlement agreement so third-party approval will be obtained.”

The property was not sold pursuant to your listing and Mr. Sumner was unable to purchase the property.

The case proceeded to trial and plaintiff prevailed as Mr. Sumner was found to be a squatter. Plaintiff was then authorized to proceed with an eviction. Following the trial, plaintiff learned that you had listed the property for sale without his knowledge or consent.

In light of your client’s assertion of property rights upon an invalid lease and your unauthorized listing of the property, plaintiff filed a lawsuit against your client and you, alleging fraud. Neither you nor Mr. Sumner filed an answer to the lawsuit. A default judgment was entered against you. Thereafter, you contested the default judgment, asserting that you were never properly served. The trial court denied your motion to vacate and the Court of Appeals affirmed the trial court’s decision.

Based upon our investigation of this matter, we find that your conduct violated Rule 8.4(d).

Rule 8.4(d) provides “it is professional misconduct for an attorney to engage in conduct that seriously interferes with the administration of justice.”

In order to establish a violation of Rule 8.4(d), it must be shown that (1) the attorney acted improperly; (2) the conduct bore directly upon the judicial process with respect to an identifiable case or tribunal; and (3) the conduct at least potentially, adversely impacted the process to a serious degree. *In re Travers*, 764 A.2d 242, 248 (D.C. 2000); *In re Hopkins*, 677 A. 2d 55,61 (D.C. 1996). The rule is violated, *inter alia*, where the attorney’s improper conduct causes the unnecessary expenditure of the time and resources in a judicial proceeding. *In re Cole*, 967 A.2d 1264, 1266 (D.C. 2009).

Plaintiff filed a lawsuit against you alleging, *inter alia*, that your listing of his property constituted a civil fraud. A default judgment was entered against you because you did not answer or appear at the beginning of the case. Thereafter, the trial court held an ex-parte hearing on damages and found you jointly and severally liable with Mr. Sumner for \$74,372.50. You then filed a motion to vacate with the trial court. During the hearing on your motion to vacate, the court found that you actively avoided service of the civil complaint and denied your motion. Specifically, the court found that when approached by the process server, you would not

acknowledge your identity.¹ The court also found that you failed to maintain a registered agent for your business entity. Thereafter, the Court of Appeals affirmed the trial court's decision. In sum, your improper conduct set in motion a series of events which unnecessarily and adversely affected the administration of judicial system.

We have considered whether your listing of the property without the plaintiff's permission violated Rule 8.4(c), which prohibits an attorney from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. Your listing the plaintiff's property for sale without his permission was improper. You represent that during settlement negotiations, plaintiff's counsel told you that "if [you] could sell it and get the \$375,000 price his client wanted, [you] could talk." Plaintiff settlement offer dated August 13, 2014, did not mention that you could list the property for sale. Neither your version of counsel's statement nor the written settlement offer could reasonably be understood to authorize your listing plaintiff's property for sale. Consequently, even if you honestly believed plaintiff had authorized you to list their property, such belief was unreasonable and therefore improper.

We have decided not to charge you with dishonesty because we cannot discern any benefit you or your client would have received if an offer for purchase had been extended to you pursuant to your listing of the property. First, your listing disclosed that the sale of the property was part of a law suit settlement agreement and that third-party approval would be required. So, you could not have sold the property without the participation of plaintiff. Finally, because there was no offer to buy the property pursuant to your listing, we could not prove that you would have profited from the sale of the property.

As noted above, the ethical complaint also raises issues related to your conduct in the underlying landlord/tenant litigation. Based upon our investigation, we do not find clear and convincing evidence that you violated the Rules.

In deciding to issue this Informal Admonition, we have taken into account that you do not have a disciplinary history, you cooperated with our investigation, your conduct did not involve dishonesty, and you have accepted responsibility including by agreeing to accept this informal admonition. We have also considered that you represented your client *pro bono*.

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

¹ You report that you did not accept service because you were in the courthouse, and that the rules prohibit service in that venue. We conclude that the appropriate way to contest service was to file an appropriate motion with the court rather than to refuse to acknowledge your identity to the process server.

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

Enclosure: Attachment to Letter of Informal Admonition

cc: E.S. (w/o enclosure)

M.L. (w/o enclosure)

HPF:HCS:ipm