OFFICE OF DISCIPLINARY COUNSEL

October 28, 2020

Samer B. Korkor, Esquire
c/o Andrea L. Moseley, Esquire

VIA EMAIL ONLY AT
amoseley@dimuro.com

Re: In re Samer B. Korkor, Esquire
Disciplinary Docket No. 2020-D021
D.C. Bar Membership No. 989381

Dear Mr. Korkor,

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

This investigation was docketed based on a referral from the Department of Justice's Office of Professional Responsibility.

We find as follows: Starting in 2009, you worked as an associate at a law firm that represented a Japanese company and its US subsidiary in a Department of Justice criminal antitrust investigation of the Japanese electrolytic capacitor industry and in parallel civil proceedings. Between June 2014 and February 2015, you billed approximately 215 hours of work for those companies.

In February 2015, you left the law firm and joined the Department of Justice's Office of International Affairs. In March 2015, you were assigned to finalize a mutual legal assistance request, commonly referred to as an MLAT. The MLAT was to be issued on behalf of DOJ's Antitrust Division and sought permission from the Japanese government to interview a witness in Japan as part of the electrolytic capacitor investigation.

On March 19, 2015, you received a draft MLAT. The draft MLAT was eight pages long and included a two-page exhibit. The draft MLAT described the alleged conspiracy and stated that executives from a number of companies, including your former client, had conspired to engage in price-fixing. The draft MLAT also contained a list titled "Subject of the Investigation," which included

your former client. Over the course of several days, you worked with your supervisor and attorneys from the Antitrust Division to edit and finalize the document. On March 25, 2015, the MLAT was transmitted to Japanese officials.

While working to finalize the MLAT, you contacted DOJ's Professional Responsibility Advisor Office with concerns about a potential conflict of interest. During your discussions with PRAO attorneys, you erroneously told them that your former client was not involved in the MLAT matter. Based on those representations, PRAO told you that you did not need to recuse yourself.

Attorneys from the Antitrust Division eventually interviewed the witness in Japan. In 2017, your former client was indicted under the Sherman Antitrust Act. You did not participate in the interview or provide any substantive input into the investigation or prosecution of your former client.

In early 2018, defense attorneys for your former client learned of your involvement in the processing of the MLAT and notified the DOJ. At least in part out of concern that the conflict of interest would result in dismissal or other sanctions against it, the government agreed to accept a guilty plea from your former client and a fine of $60 million, rather than the statutory maximum of $100 million.

We find that this conduct violated Rule 1.9. Rule 1.9 provides that a lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent. Matters are "substantially related" for purposes of this rule if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter. Comment [3]. Here, you worked on your former client's defense to a DOJ antitrust investigation and later worked for DOJ on that same investigation, the same legal dispute.

You maintain that you were not aware that the MLAT concerned your former client. Even if true, your conduct violated Rule 1.9, which does not require intent. Furthermore, as set forth in Comment [19] of Rule 1.7, the general rule concerning conflicts of interests, a lawyer has a duty to make inquiries to determine potential conflicts in matters involving specific parties. At a minimum, knowing that your former client was involved in the electrolytic capacitor industry, you had a duty to read the MLAT to ensure that your former client was not involved. Failing to have done so is not a defense to Rule 1.9.

In deciding to issue this letter of Informal Admonition rather than institute formal disciplinary charges against you, we have taken into consideration the supporting letters provided by your coworkers and supervisors from the DOJ and that you took this matter seriously, cooperated with our investigation, have no record of prior disciplinary actions and have accepted responsibility for your misconduct, including by accepting this Informal Admonition.

This letter constitutes an Informal Admonition for your violation of the Rules, pursuant to D.C. Bar R. XI, §§ 3, 6, and 8 and is public when issued. An Informal Admonition is the most lenient form of public discipline available. 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 within 14 days of the date of this letter to the Office of Disciplinary Counsel, with a copy to the Board on Professional Responsibility, unless Disciplinary Counsel grants an extension of time. If you request a hearing, this Informal Admonition will be vacated, and Disciplinary Counsel will institute formal charges pursuant to D.C. Bar R. XI, § 8 (b). 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 R. XI, § 8 (c). 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,

__/s/ Hamilton P. Fox, III___
Hamilton P. Fox, III
Disciplinary Counsel

Encl.: Attachment to Letter of Informal Admonition

HPF:HRD:eaf