Nicole S. Kaseta, Bar No. 025244
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone: 602-340-7250
Email: LRO@staff.azbar.org

Roberto Salazar, Bar No. 023444
Salazar Law Firm PLLC
3003 North Central Avenue, Suite 690
Phoenix, Arizona 85012-2924
Telephone: 602-266-0225
Email: roberto@quelepaso.com
Respondent

BEFORE THE PRESIDING DISCIPLINARY JUDGE OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **Roberto Salazar,** **Bar No. 023444,** Respondent.	**PDJ-2013-9074** **AGREEMENT FOR DISCIPLINE BY CONSENT** State Bar Nos. 12-3236, 12-3257, 12-3271, 12-3372, 13-0029, 13-0030, 13-0415, 13-0594, 13-0608, 13-0704, 13-0852, 13-0914, 13-0934, 13-0936, 13-0969, 13-1134, 13-1141, 13-1553

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent Roberto Salazar, who has chosen not to seek the assistance of counsel, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. Respondent voluntarily waives the right to an adjudicatory hearing on the amended complaint, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the Complainants by letter on December 19, 2013. Complainants have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ER(s) 1.1, 1.2, 1.3, 1.4, 1.5(a), 1.5(b), 1.5(d)(3), 1.15(d), 1.16(d), 3.1, 3.2, 3.4(c), 8.4(c), 8.4(d), and Rule 54(c), Ariz. R. Sup. Ct. Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline:

A. Respondent shall be suspended from the practice of law in Arizona for a period of five years.

B. Respondent agrees to pay restitution to the following Complainants in the following amounts within sixty (60) days of entry of the final judgment and order in this matter: (1) File no. 12-3271 in the amount of $2,500.00 to Maria Haydee Arellano; (2) File no. 13-0914 in the amount of $2,000.00 to Rosita Machado; and (3) File no. 13-0936 in the amount of $3,000.00 to Juan Pedro Martinez.

C. Respondent agrees to participate in mandatory fee arbitration during his five year suspension in the following files: 12-3236 (Coronado), 12-3257 (Breceda/Gonzalez), 12-3372 (Estudillo), 13-0029 (Leyva), 13-0030 (Valenzuela), 13-0415 (Gallego), 13-0608 (Rico-Ocano), 13-0704 (Hernandez), 13-0852 (Madero-Navarro), 13-0934 (Salazar), 13-0969

(Wilson Saitas), 13-1134 (Machado), 13-1141 (Montano)[1], 13-0936 (Martinez)[2], 13-1553 (Kreider)[3]. Additionally, Respondent agrees to participate in fee arbitration in the following screening files that the State Bar agrees to dismiss in exchange for this agreement for a five year suspension: 13-1968 (Villareal), 13-2252 (Hernandez), and 13-2705 (Esquer).

D. In the files listed above, Respondent will initiate fee arbitration within ninety (90) days from entry of the final judgment and order in this matter. Respondent shall provide proof that he timely initiated the fee arbitration process to the State Bar. If the client fails to participate in the fee arbitration, Respondent shall have no further responsibility. Respondent shall pay any fee arbitration award within thirty (30) days from the date the fee arbitrator issues the award.

E. Respondent currently owes the State Bar's Law Office Management Assistance Program (LOMAP) the amount of $937.50 and agrees to pay LOMAP this amount within sixty (60) days from entry of the final judgment and order in this matter.

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[1] File Nos. 13-0415 (Gallego) and 13-1141 (Montano) involve a husband and wife who executed one fee agreement with Respondent. Accordingly, there will be one fee arbitration for these files.

[2] Mr. Martinez entered two fee agreements with Respondent that cover separate services—one dated September 19, 2011 for $3,000.00 and one dated February 19, 2013 for $1,000.00. Only the second amount of $1,000.00 is intended to be part of this fee arbitration. The first fee agreement for $3,000.00 is addressed in the restitution section of this Consent Agreement.

[3] The named complainant in file 13-1553 is the new attorney for a former client of Respondent. Accordingly, the fee arbitration involving file no. 13-1553 shall involve Respondent's former client, Mr. Rodriguez, and not his current attorney, Ms. Kreider.

F. Respondent shall pay the costs and expenses of the disciplinary proceedings.[4] The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

G. Upon reinstatement, Respondent shall be placed on probation for a period of two years, under terms to be determined at the time of reinstatement but that shall include:

i. Respondent shall participate in LOMAP; and

ii. Respondent shall have a practice monitor approved by LOMAP and Bar Counsel who will advise Respondent in the substantive area of law in which he practices as well as advise and supervise him regarding law practice management and ethics.

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on October 21, 2004.

COUNT ONE (State Bar File No. 12-3236)

2. In December of 2010, the United States Department of Homeland Security (USDHS) commenced removal proceedings against Juan Coronado (Coronado), a citizen of Guatemala.

[4] Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

3. On February 28, 2011, Respondent and Coronado executed a flat fee agreement for $5,000.00 and Respondent agreed to represent Coronado in his removal proceedings.

4. On December 28, 2011, Respondent filed a "written pleading" with the immigration court stating that Coronado would be applying for cancellation of removal.

5. On January 4, 2012, Respondent appeared with Coronado at an immigration court hearing. During this hearing, the immigration court scheduled an individual hearing for October 19, 2012 and provided Respondent a July 10, 2012 deadline for filing his application for cancellation of removal, a prehearing brief, a memorandum on eligibility, and a witness list. The immigration court instructed Respondent that if he did not file these documents on or before July 10, 2012 that any application for cancellation of removal would be deemed abandoned.

6. Respondent failed to submit the aforementioned documents to the immigration court by July 10, 2012.

7. On August 15, 2012, the immigration court entered a deportation order against Coronado because of Respondent's failure to file the application for cancellation of removal.

8. Respondent did not provide Coronado a copy of this order or otherwise inform Coronado about this order.

9. After the date scheduled for Coronado's individual hearing passed, Respondent sent Coronado a letter enclosing the removal order.

10. On October 23, 2012, Respondent submitted a letter to the USCIS requesting a 30-day extension of the deportation order so that he could file a motion to reopen the removal proceedings.

11. The USCIS denied the request because Respondent did not submit the correct form for seeking a stay of removal and informed Respondent that the correct form must be filed no later than October 31, 2012.

12. On October 30, 2012, Coronado submitted the correct form.

13. Coronado then terminated Respondent and requested his file and an accounting from Respondent. Respondent did not provide Coronado his complete file or an accounting.

14. On December 5, 2012, the USCIS granted the application for stay of removal for six months or until April 30, 2012.

15. Coronado, in pro per, subsequently filed a motion to reopen the removal proceedings.

16. Around this time, Respondent again commenced representing Coronado.

17. The immigration court scheduled a hearing on April 9, 2013 regarding Coronado's motion to reopen the removal proceedings. Despite leaving multiple messages with Respondent regarding this hearing, Coronado did not have any contact with Respondent from February of 2013 until April 9, 2013.

18. Respondent appeared at the April 9, 2013 hearing and the immigration court agreed to reopen Coronado's removal proceedings.

COUNT TWO (State Bar File No. 12-3257)

19. On April 14, 2011, Veronica Gonzalez (Gonzalez) consulted with Respondent regarding her and her husband obtaining permanent residency in the U.S.

20. Gonzalez disclosed to Respondent that her mother is a U.S. citizen, that Gonzalez and her husband are from Mexico, and that they have two U.S. citizen children under the age of 21 years old.

21. Respondent advised Gonzalez that she and her husband could obtain residency through her mother within a year. Respondent also advised Gonzalez that he could obtain a work permit for her husband within three months.

22. On April 18, 2011, Gonzalez and Respondent executed a $5,000.00 flat fee agreement "for the purposes of filling [sic] a petition for her and her husband . . . through her US citizen mother Paulina Margarita Breceda."

23. On or about March 30, 2012, Respondent submitted a petition for alien relative (form I-130) to the USCIS on behalf of Gonzalez but not on behalf of Gonzalez's husband.

24. Respondent did not submit an application for employment authorization to the USCIS on behalf of Gonzalez's husband.

25. Although Respondent informed Gonzalez that he could obtain a work permit for her husband, Gonzalez was not actually eligible for an employment authorization.

26. Respondent did not inform Gonzalez or her husband that Gonzalez's husband was not eligible for an employment authorization until much later.

27. Gonzalez and her husband often called Respondent requesting status updates but Respondent failed to respond to their requests.

28. In approximately April of 2012, Respondent informed Gonzalez that she should wait for one of her daughters to become the requisite age to petition for her because having her mother petition for her would take 18 or 19 years.

29. Gonzalez asked for a refund but Respondent informed her that he could not provide her a refund.

30. Gonzalez subsequently retained a new attorney, Eric Bjotvedt, who sent Respondent a letter on October 24, 2012. Mr. Bjotvedt wrote that Respondent's fee agreement with Gonzalez is for $5,000.00 for filing a petition for alien relative, that this form is only two pages long, and that a reasonable flat fee would be $500.00 to $700.00 with costs.

31. Mr. Bjotvedt further informed Respondent that he represents Gonzalez's husband, that Gonzalez's husband thought that Respondent submitted an application for employment authorization on his behalf, and that Gonzalez's husband never heard back from Respondent regarding this. Mr. Bjovedt informed Respondent that there was no basis in law or fact to submit an employment authorization application. Mr. Bjovedt requested Gonzalez's her file, an accounting, and the grounds for submitting the application for employment authorization.

32. Respondent never responded to Mr. Bjovedt and never provided the documentation that he requested in his letter.

COUNT THREE (State Bar File No. 12-3271)

33. On August 4, 2010, Maria Haydee Arellano (Arellano) inquired with Respondent about obtaining an adjustment of status. She informed Respondent that

her son's father and family were verbally abusive to her but that she never filed a police report relating to the abuse because it did not involve physical abuse.

34. On the same day, Respondent and Arellano executed a flat fee agreement for $500.00 "for the purposes of doing research on Humanitarian Visas."

35. Although Arellano never informed Respondent that she was a victim of human trafficking, Respondent subsequently advised Arellano that she qualified for a T-Visa and that, if she applied for such visa, that they would have a response to her application within seven months. Respondent also mentioned a U-Visa to Arellano.

36. On August 16, 2010, Respondent and Arellano executed a second flat fee agreement for $4,000.00 "for purposes of preparing a visa T."

37. Respondent never completed the T-Visa form because Arellano did not qualify for a T-Visa. Specifically, the instructions to this form provide that its purpose is "to request temporary immigration benefits if you are a victim of a severe form of trafficking in persons" and Arellano was not such a victim.

38. Four or five months after Arellano signed the flat fee agreement with Respondent, Respondent decided that a U-Visa would be more applicable because of Arellano's statements of abuse. Respondent did not timely inform Arellano of this.

39. The instructions for the U-Visa form state that the petitioner must demonstrate that she is the victim of certain designated crimes, such as domestic violence, that she suffered substantial abuse as a result, and that a government official investigating the alleged crime certifies that the petitioner is or is likely to be helpful in the investigation or prosecution of the alleged crime.

40. Respondent never completed the U-Visa form because it requires the signature of an investigating officer which did not exist for Arellano because Arellano never filed a police report.

41. After about eight or nine months, Arellano heard nothing from either Respondent or the USCIS. Accordingly, Arellano began calling Respondent's office approximately every two or three weeks. During these phone calls, Respondent merely informed her that "everything is fine" or asked for information from Arellano that she already provided to him.

42. Arellano's phone calls to Respondent continued until approximately October of 2011 when she arrived at Respondent's office unannounced and met with Respondent. During this meeting, Respondent finally informed her that it was unlikely that she could qualify for a T-Visa and that he was not going to be able to assist her.

43. Arellano terminated Respondent and asked for a full refund. Respondent agreed to refund her $4,000.00 but not the initial $500.00 that she paid him.

44. On or about October 3, 2011, Respondent refunded her $1,000.00.

45. On or about October 28, 2011, Respondent provided her a check for $1,000.00. On or about December 23, 2011, Arellano's bank informed her that the October 28, 2011 was returned for non-sufficient funds. Arellano subsequently went to Respondent's office and Respondent provided Arellano $1,000.00 in cash.

46. Respondent failed to refund Arellano the remainder of the fees that she paid Respondent despite her requests that he do so.

COUNT FOUR (File No. 12-3372)

47. Hector Estudillo (Estudillo) and his wife are citizens of Mexico but they have U.S. citizen children.

48. In February of 2011, the USDHS initiated removal proceedings against Estudillo and his wife.

49. On March 3, 2011, Estudillo and Respondent entered a flat fee agreement for $7,000.00 and Respondent agreed to represent Estudillo and his wife in their removal proceedings and seek cancellation of removal for them.

50. Respondent informed the State Bar that Estudillo did not qualify for cancellation of removal. Respondent, however, filed an application for cancellation of removal for Estudillo. Respondent informed the State Bar that he had to file this application in order to apply for an employment authorization for Estudillo. Respondent subsequently informed the State Bar that it was possible for Estudillo to be granted cancellation of removal but it would be difficult to obtain this relief.

51. After his initial consultation with Respondent, Estudillo's only contact with Respondent was when he saw Respondent at immigration court hearings.

52. Estudillo informed Respondent that his wife suffered a stroke in 2010 and, as a result, is unable to speak. Respondent informed Estudillo that this "was not principal in the matter" because his wife was not a U.S. citizen and hardship must be proven to a qualifying relative.

53. Estudillo requested that Respondent consolidate his and his wife's removal cases because his wife could not speak. Respondent informed Estudillo that he would speak to the prosecutor regarding the issue of consolidation.

54. Respondent never spoke to the prosecutor regarding consolidation and never filed a motion for consolidation.

55. On June 22, 2011, Respondent attended a hearing at the immigration court on behalf of Estudillo's wife. Respondent disclosed to the immigration court that Estudillo's wife could not speak because she suffered a stroke. Respondent requested and obtained a continuance until March 27, 2012. The immigration court instructed Respondent to coordinate with the government on how he intended to proceed given his client's medical conditions.

56. Respondent failed to coordinate with the government as instructed by the immigration court.

57. On January 5, 2012, Respondent filed a "written pleading" on behalf of Estudillo, stating that Estudillo would apply for cancellation of removal.

58. On January 5, 2012, Respondent and Estudillo appeared for an immigration court hearing. The immigration court scheduled a final hearing for October 9, 2012, ordered that Estudillo submit his application for cancellation of removal by September 18, 2012, and submit all evidence by September 25, 2012.

59. On March 27, 2012, Respondent submitted a "written pleading" on behalf of Estudillo's wife stating that she would apply for cancellation of removal.

60. On the same date, Respondent appeared on Estudillo's wife's behalf for a second immigration court hearing. The immigration court observed that Respondent's client could not communicate. Respondent advised the immigration court that his client's husband was also in removal proceedings. The immigration court asked Respondent if he had communicated with the government on this case in any way, including regarding how to proceed given his client cannot speak.

Respondent indicated that he had not, the immigration court asked why, and Respondent stated that he would do so. The immigration court instructed Respondent to coordinate with the government on how to proceed and to check with the court in Estudillo's removal proceeding to determine if the cases should be consolidated. The immigration court instructed Respondent to "follow through on all these things" and scheduled another hearing for March 26, 2013.

61. Respondent again failed to coordinate with the government and also failed to pursue consolidation as instructed by the immigration court.

62. Even though Estudillo's final hearing was scheduled for October 9, 2012 and all evidence was due to the immigration court by September 25, 2012, Respondent waited until September 13, 2012 to request documents from Estudillo for the hearing and to request the identity of witnesses to testify at the hearing.

63. On September 19, 2012, Respondent submitted a prehearing statement to the immigration court on behalf of Estudillo. The pre-hearing statement contains a list of exhibits but the list does not contain character letters or other documentation regarding Estudillo's wife's medical issues.

64. Respondent submitted a supplemental pre-hearing statement to the immigration court on behalf of Estudillo, listing further exhibits such as character letters for Estudillo. Respondent again failed to list any medical records or documentation relating to Estudillo's wife.

65. On October 9, 2012, the immigration court held Estudillo's final hearing. During the October 9, 2012 hearing, Respondent informed the immigration court that that he wanted to submit documents relating to Estudillo's wife's medical condition. The immigration court stated that it did not know why Respondent did not previously

submit the records and that it would not continue the hearing on this basis. The immigration court noted, however, that Estudillo's wife's medical condition was relevant to the extent it impacts a qualifying relative.

66. On the same day, the immigration court denied Estudillo's application for cancellation of removal, finding that Estudillo had not demonstrated the requisite hardship to a qualifying relative.

67. The immigration court specifically found that the prehearing statement that Respondent filed contained errors and was not credible.

68. On March 26, 2013, Respondent attended an immigration court hearing relating to Estudillo's wife and informed the immigration court that he no longer represented Estudillo or his wife.

69. At the March 26, 2013 hearing, the immigration court asked Respondent what efforts he made to discuss the case with the government. Respondent informed the immigration court that he contacted the government that same day. The immigration court reminded Respondent that it directed him to contact the government a year ago at the last hearing and questioned Respondent why he waited a year.

70. The immigration court then postponed the hearing for another year. The government stated that it would write Estudillo and his wife a letter asking them for supporting documentation relating to Estudillo's wife's medical condition and, if they provided such documentation, the government would consider prosecutorial discretion and administratively close the case, ending the removal proceedings.

71. At the hearing, Estudillo asked the immigration court about consolidating his and his wife's cases and the immigration court instructed him to submit a written motion.

COUNT FIVE (File No. 13-0029)

72. On July 22, 2008 the USDHS initiated removal proceedings against Guadalupe Lopez Leyva (Leyva), who is a citizen of Mexico.

73. On November 30, 2009, Respondent provided Leyva a fee agreement that included an hourly rate of $200.00 and required a $4,000.00 retainer.

74. Even though the fee agreement provided that Respondent would be charging an hourly rate, Respondent informed Leyva that he would be charging her a flat fee of $4,000.00.

75. When Leyva initially consulted with Respondent, Respondent advised her that he would be able to help her remain in the U.S. based on her years of residence in the U.S. as well as the fact that Leyva has three U.S. citizen children.

74. Respondent informed the State Bar that cancellation of removal was the only benefit that Leyva qualified for and that she did not qualify for an adjustment of status.

75. On December 3, 2009, Respondent attended an immigration hearing on behalf of Leyva and obtained a continuance until March 18, 2010.

76. On March 18, 2010, Respondent attended another immigration hearing on behalf of Leyva and requested another continuance because he allegedly was unable to meet with Leyva before the hearing. The immigration court provided Respondent a continuance until August 19, 2010 and warned Respondent that this continuance would be the last one because of the age of the case.

77. On August 19, 2010, Respondent attended another immigration hearing on behalf of Leyva. The immigration court scolded Respondent for apparently asking for another continuance without sufficient grounds. The immigration court scheduled another hearing for September 2, 2010.

78. On September 2, 2010, Respondent had another attorney attend Leyva's immigration hearing. The immigration court set a final hearing for May 2, 2011 and directed Respondent to file Leyva's application for cancellation of removal by April 11, 2011.

79. On or about October 1, 2010, Respondent submitted an application for cancellation of removal to the immigration court on behalf of Leyva. The application states that Leyva has three children who are U.S. citizens and that her removal would result in exceptional and extremely unusual hardship to them.

80. On December 20, 2011, the immigration court rescheduled Leyva's final hearing for October 1, 2012.

81. On October 1, 2012, the immigration court held Leyva's final hearing. Minutes before the hearing commenced, Respondent advised Leyva that her case would be difficult to win.

82. Respondent did not prepare Leyva for this hearing and was not prepared for the hearing himself.

83. At the hearing, Respondent did not call any of Leyva's children to testify. Leyva testified that she has one daughter who is a permanent resident in the U.S. who is about to become a naturalized citizen.

84. On October 5, 2012, the immigration court denied Leyva's application for cancellation of removal, holding that Leyva did not demonstrate the requisite hardship to a qualifying relative.

85. The immigration court advised Leyva of her appeal rights and option of filing a motion to reopen the case. At this point in the hearing, Leyva reminded the immigration court that she has another daughter who was about to become naturalized. The immigration court responded by observing that this daughter is over 21 years old and could file a petition on behalf of Leyva so that an immediate visa could be available and Leyva could file a petition to adjust status.

86. Leyva requested her file from Respondent approximately a week after the October 1, 2012 hearing. Respondent, however, did not provide Leyva her file until approximately January of 2013.

87. Additionally, during the representation, Respondent would not return Leyva's phone calls, did not provide her status updates on her case, and did not inform her of one hearing date resulting in Leyva being late to the hearing.

88. Leyva subsequently retained new counsel who filed a motion to reopen the proceedings "based on the ineffective assistance."

89. On January 16, 2013, the immigration court granted the motion to reopen agreeing that Respondent was ineffective.

COUNT SIX (File No. 13-0030/Valenzuela)

90. In 2010, the USDHS initiated removal proceedings against Rodriguez Valenzuela (Valenzuela), who is from Mexico but who has a wife and children who are U.S. citizens.

91. On January 26, 2011, Respondent and Valenzuela entered a flat fee agreement for $5,500.00 and Respondent agreed to represent Valenzuela in his removal proceedings.

92. In approximately August of 2011, Respondent submitted to the USCIS an application for an employment authorization for Valenzuela.

93. On August 18, 2011, the USCIS returned the application to Respondent because he submitted a check with the application that was returned by the bank. Respondent subsequently provided another check to the USCIS and the USCIS processed the application on March 23, 2012.

94. On January 3, 2012, Respondent attended a hearing with Valenzuela at the immigration court. At this hearing, the immigration court set a July 3, 2012 deadline for filing a prehearing statement and an application for cancellation of removal and scheduled another hearing for September 25, 2012.

95. Respondent never filed the application for cancellation of removal with the immigration court or the prehearing statement.

96. On August 17, 2012, the immigration court deemed Valenzuela's application for cancellation of removal abandoned based on the failure of Respondent to file it.

99. On August 21, 2012, the immigration court issued an order allowing Respondent to seek voluntary departure for Valenzuela and requesting that Respondent provide notice regarding Valenzuela's position on voluntary departure by September 5, 2012.

100. Respondent failed to provide to the immigration court Valenzuela's position on voluntary departure by September 5, 2012.

101. On September 14, 2012, the immigration court ordered Valenzuela removed from the U.S. to Mexico. In its order, the immigration court wrote: "On August 17, 2012, the Court issued a decision ordering the respondent's application for cancellation of removal abandoned based on counsel's failure to file the required Form . . . by the court-imposed deadline. . . . Subsequently. . ., this Court issued another order on August 21, 2012 to allow counsel the opportunity [to] seek voluntary departure. . . . As this order set forth, counsel was specifically instructed to notify the Court by September 5, 2012 as to his client's position on voluntary departure. . . . Yet again, however, counsel has failed to meet the Court's deadline."

102. Respondent did not inform Valenzuela of the aforementioned immigration court orders until approximately a month after the immigration court issued its September 14, 2012 order. When Respondent informed Valenzuela of the aforementioned orders, he also admitted that the removal order was his fault, informed Valenzuela that he could no longer represent him, and that he would provide Valenzuela a refund.

103. Respondent subsequently would not return Valenzuela's phone calls.

104. Respondent eventually provided Valenzuela a check for $1,000.00. When Valenzuela attempted to cash the check, the bank informed him that Respondent's account did not have sufficient funds. Valenzuela immediately called Respondent and waited at the bank for Respondent to deposit sufficient funds. Valenzuela was then able to cash the check.

105. Valenzuela requested his file from Respondent around this time. Respondent, however, provided him an incomplete copy of his file approximately three weeks later.

106. Valenzuela then retained new counsel who informed Respondent on November 26, 2012 that he intended to file a motion to reopen Valenzuela's immigration case by the end of the week and asked for a declaration from Respondent to support the motion.

107. Respondent did not timely provide Valenzuela's new counsel the requested declaration and, on December 5, 2012, Valenzuela's new counsel filed the motion without a declaration from Respondent.

108. On January 11, 2013, the immigration court granted the motion to reopen Valenzuela's case based on Respondent's ineffective assistance of counsel.

109. During the course of his representation of Valenzuela, Respondent did not communicate with Valenzuela sufficiently and did not return Valenzuela's calls, Valenzuela would learn of hearing dates by checking online, and Respondent often waited until the day before the hearing to inform Valenzuela that his attendance was required.

COUNT SEVEN (File No. 13-0415)

108. Irma Carina Gallego (Gallego) and her husband, Miguel Montano (Montano), are citizens of Mexico who reside in the U.S. illegally and who have three U.S. citizen children.

109. The USDHS initiated removal proceedings against Gallego and her husband in approximately September of 2010.

110. On October 4, 2010, Respondent and Montano executed a flat fee agreement for $10,000.00 and Respondent agreed to represent Gallego and Montano in the removal proceedings.

111. Respondent informed Gallego that they needed to "buy time" so that Gallego could satisfy the 10 year physical presence requirement for cancellation of removal.

110. Respondent further advised Gallego that it would be beneficial to her application to cancel removal if one of her qualifying relatives was sick or incapacitated. Because none of them were incapacitated or sick, Respondent asked Gallego to take her children to a counselor to conduct an evaluation but the counselor did not recommend any treatment for the children.

111. Respondent admitted to the State Bar that if there were no sick children or "something very strong", then "the case could not proceed." Respondent further informed the State Bar that Gallego did not qualify for an adjustment of status.

112. On January 6, 2011, Respondent appeared on behalf of Gallego at an immigration hearing. At the hearing, the government informed the immigration court that Respondent also represented Gallego's husband. The immigration court indicated it was willing to consider consolidation of the cases.

113. On or about June 21, 2011, Respondent submitted an application for cancellation of removal to the USCIS on behalf of Gallego alleging that removal would result in the requisite hardship to her children.

114. On December 3, 2012, Respondent filed a motion to consolidate Gallego's removal proceedings with her husband's removal proceedings but the court denied the motion the next day.

115. Respondent never informed Gallego that the immigration court denied the motion to consolidate.

116. On February 9, 2012, Respondent submitted "written pleadings" to the immigration court on behalf of Gallego stating that Gallego intended to file for cancellation of removal.

117. On the same date, Respondent and Gallego attended an immigration court hearing. At this hearing, the immigration court scheduled a final hearing for January 28, 2013.

118. In January of 2013, Respondent submitted a pre-hearing brief to the immigration court. Despite informing the State Bar that Gallego did not qualify for an adjustment of status, Respondent states in his pre-hearing brief that Gallego qualifies for an adjustment of status.

119. Respondent never contacted Gallego to remind her of the hearing scheduled for January 28, 2013 or to prepare her for the hearing.

120. Gallego attempted to contact Respondent regarding the January 28, 2013 hearing several times before the hearing but Respondent did not return her calls.

121. Because Respondent did not return her calls or otherwise contact her regarding the January 28, 2013 hearing, Gallego assumed that the hearing was cancelled. Gallego assumed that her case was consolidated with her husband's case as her husband had a hearing scheduled for May of 2013.

122. On January 28, 2013, Respondent attended the January 28, 2013. Gallego did not attend this hearing because Respondent never contacted her about it. At the hearing, Respondent informed the immigration court that he did not know the whereabouts of Gallego.

123. The immigration court ordered Gallego removed from the U.S. for failing to appear but provided Gallego the option of filing a motion to reopen her case by July 29, 2013.

124. On the same date, Respondent sent Gallego a letter stating that he appeared for the hearing but "due to your absence . . . [,] the Immigration Judge has issued a deportation order without an option to appeal but with the option to reopen your case." Respondent further advised Gallego that "our representation of you in this case is terminated."

125. After Gallego received this letter, she and Montano retained a new attorney who filed a motion to reopen her case.

126. On May 7, 2013, the immigration court entered an order reopening Gallego's case. The immigration court explained that Gallego did not think that she had to attend the January 28, 2013 hearing because Respondent allegedly advised her that her case would be consolidated with her husband and she only had to attend future hearings scheduled in her husband's case. The court concluded that Gallego "has presented a viable claim of ineffective assistance of counsel based on her prior attorney's misrepresentations."

127. During the course of Respondent's representation of Gallego, the only time that Respondent spoke with Gallego was at hearings. Moreover, Gallego would only learn of upcoming hearings from her attendance in court, not through Respondent.

COUNT EIGHT (File No. 13-0594)

128. In November of 2011, Jose Luis Garcia Lopez (Lopez) was arrested for possessing marijuana and a weapon.

129. On December 5, 2011, Respondent and Lopez entered a flat fee agreement for $8,000.00 "for the purposes of [a] Criminal Case in Maricopa and Immigration[.]"

130. The court scheduled a status conference for December 16, 2011 and a preliminary hearing for December 21, 2011.

131. On December 16, 2011, Respondent entered a notice of appearance and filed a motion to continue the status conference and the preliminary hearing. The court granted the motion, rescheduling the status conference for December 22, 2011 and the preliminary hearing for January 9, 2012.

132. Respondent failed to attend the status conference on December 22, 2011 or otherwise inform the prosecution that he could not attend the status conference.

133. On the same date, the prosecutor filed a motion to reaffirm the preliminary hearing for January 9, 2012. The court granted the motion.

134. On December 23, 2011, a grand jury indicted Lopez.

135. On March 15, 2012, Respondent and Lopez executed a plea agreement whereby Lopez agreed to plead guilty in exchange for probation.

136. On the same date, the court accepted the plea and scheduled Lopez's sentencing for April 17, 2012.

137. On April 17, 2012, Respondent failed to appear for the sentencing and, therefore, the court continued the sentencing until April 24, 2012.

138. Respondent attended the sentencing on April 24, 2012 and the court ordered Lopez to 18 months of unsupervised probation.

139. During the course of their representation, Respondent did not provide Lopez status updates or otherwise communicate with Lopez except when Respondent attended court hearings on behalf of Lopez.

COUNT NINE (File No. 13-0608)

140. On January 18, 2011, the USDHS initiated removal proceedings against Rosa Maria Rico Ocano (Ocano), who is a citizen of Mexico.

141. On the same date, Respondent and Ocano's husband entered into a flat fee agreement for $6,000.00, and Respondent agreed to represent Ocano in her removal proceedings.

142. On January 17, 2012, Respondent filed "written pleadings" stating that Ocano would apply for cancellation of removal.

143. Respondent also attended an immigration hearing on behalf of Ocano on the same date. During this hearing, the immigration court set a July 9, 2012 deadline for filing an application for cancellation of removal and informed Respondent that if the application was not timely filed that it would deem the application abandoned.

144. Respondent failed to file the application for cancellation of removal by July 9, 2012.

145. Respondent did not inform Ocano of his failure to do so around this time.

146. On August 17, 2012, the immigration court deemed Ocano's application for cancellation of removal abandoned.

147. Respondent did not provide Ocano a copy of this order and did not discuss this order with Ocano around this time.

148. On August 21, 2012, the court ordered Respondent to submit a written brief on or before September 5, 2012 regarding the issue of voluntary departure.

149. Respondent did not provide Ocano a copy of this order and did not discuss this order with Ocano around this time. Respondent also failed to submit the written brief by September 5, 2012.

150. On October 26, 2012, the immigration court ordered Ocano removed from the U.S. because Respondent failed to advise the court regarding voluntary departure.

151. On November 6, 2012, Respondent informed Ocano that that he failed to file her application for cancellation of removal and that he would refund her any unearned fees. Respondent has failed to do so.

152. On November 13, 2012, Respondent provided Ocano a copy of her file but did not include with this file a copy of the August 17 and 21, 2012 orders.

COUNT TEN (File No. 13-0704)

153. On May 16, 2011, Respondent and Griselda Hernandez's (Hernandez) husband executed a flat fee agreement for $4,500.00 for "the purposes [of] filing a family petition through marriage."

154. Hernandez's husband is a U.S. citizen. Hernandez and her three children are Mexican citizens.

155. Respondent informed Hernandez that she and her children qualified to adjust their status based on Hernandez's husband's citizenship.

156. Hernandez informed Respondent that she entered the U.S. illegally in 2003, was granted a voluntary departure on October 2, 2007, and then reentered

the U.S. illegally on October 5, 2007. Respondent advised Hernandez that this would not be an issue in adjusting her status.

157. In 2012, Respondent submitted petitions for alien relative to the USCIS on behalf of Hernandez and her children.

158. On July 13, 2012, the USCIS approved the petitions relating to Hernandez and one of her children and, on October 2, 2012, it approved the petitions for Hernandez's remaining children.

159. Despite Respondent's assurances to the contrary, Hernandez does not currently qualify for an adjustment of status because of her deportation and illegal entry into the U.S.

160. Hernandez has not spoken with Respondent since January of 2013. When she met with Respondent in January of 2013, he requested an additional $1,300.00 for the payment of certain costs. Hernandez refused to pay for these costs as she understood that their flat fee agreement included costs.

161. Hernandez subsequently left several messages with Respondent but Respondent did not return her phone calls.

COUNT ELEVEN (File No. 13-0852)

162. On November 3, 2009, the USDHS commenced removal proceedings against Israel Madero-Navarro (Navarro) who is a citizen of Mexico.

163. On May 20, 2011, Respondent and Navarro executed a flat fee agreement for $4,000.00 and Respondent agreed to represent Navarro in his removal proceedings.

164. On May 20, 2011, Respondent submitted an application for employment authorization to the USCIS on behalf of Navarro. The USCIS returned the application

because Respondent either provided an incorrect check amount or no check and because the application was incomplete.

165. Respondent resubmitted the application to the USCIS in August of 2011. On August 18, 2011, the USCIS returned the application to Respondent because it was again incomplete.

166. Respondent again submitted the application to the USCIS and, on October 31, 2011, the USCIS sent Respondent a "Request for Evidence" relating to the application. The USCIS explained to Respondent that aliens who are in removal proceedings must first submit an application to adjust status (form I-485) to the USCIS and then file the same with the immigration court prior to submitting an application for employment authorization. The USCIS requested that Respondent "send a copy of the . . . [application to adjust status] that bears the date stamp of when the application was accepted by the Immigration Court."

162. In response to this letter, Respondent submitted an application for cancellation of removal to the USCIS (form EOIR-42B).

163. On November 28, 2011, the USCIS denied the application for employment authorization because Respondent did not submit a copy of the application to adjust status (form I-485) to the USCIS and did not file such application with the immigration court.

164. On or about January 12, 2012, Respondent filed "written pleadings" stating that Navarro would apply for cancellation of removal.

165. On January 12, 2012, the immigration court ordered that Respondent submit Navarro's application for cancellation of removal by July 17, 2012 or it would deem Navarro's application abandoned.

166. Respondent failed to submit Navarro's application for cancellation of removal to the immigration court by July 17, 2012.

167. On August 17, 2012, the immigration court entered an order deeming Navarro's application for removal abandoned.

168. Respondent never informed Navarro about this order.

169. On August 21, 2012, the immigration court entered an order requiring the parties to submit written briefs by September 5, 2012 regarding voluntary departure.

170. Respondent never informed Navarro about this order and did not submit such a brief on voluntary departure by September 5, 2012.

171. On October 19, 2012, the immigration court entered a deportation order against Navarro because Respondent failed to timely file an application for cancellation of removal and failed to timely seek voluntary departure.

172. Respondent never informed Navarro about this order. Instead, on October 29, 2012, Respondent advised Navarro that he could no longer represent him.

COUNT TWELVE (File No. 13-0934)

173. On February 22, 2011, Blanca Salazar (Salazar) retained Respondent and Respondent provided Salazar a flat fee agreement "for the purposes of [filing a] family petition through parent."

174. The fee agreement provides for a flat fee of $8,000.00 but Respondent and Salazar later amended this agreement for $7,000.00.

175. Respondent agreed to file documentation so that Salazar and her husband could legally reside in the U.S. Respondent informed Salazar it that the

process would take approximately three years until she and her husband would be able to legally reside in this U.S., even though it would actually take between 15 to 20 years.

176. Respondent also agreed to assist Salazar's husband with a pending criminal matter. Specifically, on June 1, 2009, Salazar's husband pled guilty to driving on a suspended license and agreed to serve a two day jail sentence to commence on June 26, 2009. Salazar's husband did not serve this sentence.

177. Respondent informed Salazar that he would contact the court to see if her husband could complete community service hours instead of serving jail time.

178. On January 19, 2012, Respondent filed a one-sentence motion stating "I would like to request a hearing for the dismissal of the warrant of my client." The court denied the motion on February 2, 2012.

179. Respondent never informed Salazar that the court denied the aforementioned motion and Respondent took no further action with respect to this issue.

180. Salazar requested updates from Respondent regarding her husband's confinement order and Respondent merely informed her that he had still not received a response from the court.

181. On or about April 5, 2011, Respondent submitted notices of entry of appearance to the USCIS relating to Salazar and her husband.

182. In approximately July of 2011, Respondent submitted a petition for alien relative to the USCIS and on behalf of Salazar. Respondent lists the petitioner as Salazar's father, who is a naturalized citizen.

183. Respondent did not submit a petition for alien relative to the USCIS for Salazar's husband.

184. The USCIS approved the petition for alien relative relating to Salazar on approximately October 30, 2011. Salazar brought the approval letter to Respondent's office who then informed her that she would have to wait for an interview and that he did not know how long it would take for the National Visa Center (NVC) to schedule the interview.

185. In March of 2013, Salazar's husband was detained by immigration officials. Salazar contacted Respondent to seek assistance approximately six or seven times but only spoke with Respondent's assistant. When Respondent finally returned Salazar's call, he informed her that she would have to pay him an additional $3,500.00. Salazar refused to pay Respondent this additional amount.

186. Salazar attempted to contact Respondent twice after this but Respondent did not return her calls and Salazar's husband was subsequently deported to Mexico.

COUNT THIRTEEN (File No. 13-0969)

187. Rosalba Reyes Grajeda (Grajeda) is a Mexican citizen who has two children who are also Mexican citizens.

188. Grajeda illegally resided in the U.S. She married Ricardo Wilson Saitas (Saitas) in May of 2011.

189. In approximately January of 2011, the USDHS initiated removal proceedings against Grajeda.

190. On September 23, 2011, Saitas and Grajeda consulted with Respondent as they wanted to obtain visas for Grajeda and her two children so they could legally reside in the U.S.

191. Respondent informed Saitas that that it would take six months until they received a "Visa Appointment Date." Respondent also informed Saitas that they could not start the process until Grajeda was back in Mexico and that he would request a voluntary departure for Grajeda from the immigration court.

192. On the same day, Respondent and Saitas executed a flat fee agreement for $5,000.00.

193. Respondent subsequently requested and the immigration court granted Grajeda voluntary departure until March 14, 2012. On or about November 25, 2011, Grajeda departed to Mexico.

194. Respondent informed Saitas that he would submit a petition for alien relative to the USCIS and on behalf of Grajeda within two weeks of Grajeda's departure.

195. Respondent failed to do so. Instead, Respondent waited until approximately March 26, 2012 to submit the petition for alien relative to the USCIS.

196. Respondent did not inform Saitas of his delay in submitting the petition for alien relative. Respondent failed to communicate with Saitas until Saitas contacted Respondent in April of 2012 asking for a status update. Instead of advising Saitas that he failed to submit the petition for alien relative until approximately March 26, 2012, Respondent advised Saitas that the interviews would be scheduled "any day." Respondent repeated this to Saitas for approximately a month.

197. In September of 2012, the USCIS sent Respondent a request for evidence seeking documentation relating to Saitas' prior marriage. Saitas had discussed this documentation with Respondent earlier and assumed that Respondent had already obtained and sent this documentation to the USCIS. Saitas drafted a letter to the USCIS responding to the request for evidence.

198. On October 23, 2012, the USCIS issued a notice approving of the petition for alien relative relating to Grajeda. Respondent then submitted this approval notice and other documentation to the National Visa Center (NVC).

199. On November 9, 2012, Saitas contacted the NVC to obtain a status update. The NVC informed him that Respondent failed to submit payment to the NVC. Saitas then paid for the visa applications himself in the amount of $748.00.

200. In December of 2012, Respondent reimbursed Saitas and informed Saitas that he did not have the funds to promptly pay the NVC costs earlier.

201. On or about November 30, 2012, Respondent submitted an affidavit of support (form I-864) to the NVC.

202. On December 17, 2012, the NVC requested further information from Respondent, including passports. The NVC further advised Respondent that he provided incomplete information in the affidavit of support, including not identifying Saitas' employment and income. The NVC concluded "PLEASE NOTE: No interview will be scheduled until ALL of the information requested has been" emailed to the NVC.

203. On or about February 4, 2013, Saitas provided Respondent the further information requested by the NVC and Respondent then forwarded it to the NVC.

204. In March of 2013, the NVC scheduled interviews for April 2, 2013 for Grajeda and her children at the U.S. consulate in Nogales, Mexico. Respondent provided Saitas a package of information to provide to the interviewer. The packet did not include all the requisite information and, therefore, the interviews were rescheduled for June 6, 2013 in Juarez, Mexico.

205. The interviews occurred and then the NVC requested further information again. After Saitas provided the further information, the NVC instructed him to make another appointment in Juarez, Mexico for July 8, 2013. Saitas asked Respondent the purpose of this appointment but Respondent did not know the purpose of the appointment.

206. Respondent subsequently requested from Saitas additional money so that he could file an application for waiver of grounds for inadmissibility (form I-601) with the USCIS as to Grajeda. Saitas refused to provide Respondent any further money because Respondent informed Saitas that he was unsure if the waiver form was definitively required.

207. Respondent did not submit this application to the USCIS even though this form was a requirement for Grajeda to obtain her visa.

COUNT FOURTEEN (File No. 13-1134)

208. On April 2, 2012, Maria Machado's (Machado) son, Jesus Jezen Hernandez (Hernandez), was indicted for drug and weapon offenses.

209. The court set Hernandez's bond at $50,000.00.

210. On April 4, 2012, Respondent and Machado executed a flat fee agreement for $5,000.00 and Respondent agreed to represent Hernandez.

211. Respondent informed Machado or Hernandez that he would file a motion to modify Hernandez's bond.

212. Respondent never filed such a motion.

213. On April 9, 2012, Respondent entered his appearance on behalf of Hernandez, attended an arraignment on behalf of Hernandez, and entered a not guilty plea on Hernandez's behalf.

214. Respondent only communicated twice with Hernandez during his representation of Hernandez, did not return Hernandez's phone calls, did not provide him status updates, and did not respond to Machado's phone calls.

215. When he did communicate with Machado, Respondent informed Machado that there was a plea offer but that Respondent declined it without conferring with Hernandez because it was not a favorable plea offer.

215. In July of 2012, Machado terminated Respondent and retained a new attorney who substituted in for Respondent on July 17, 2012 and who obtained a decrease in Hernandez's bond amount and his release.

216. On September 20, 2012, Machado sent Respondent a letter stating that she was not satisfied with Respondent's representation of her son because he failed to file a motion to modify Hernandez's bond, failed to convey a plea offer to Hernandez, failed to communicate with Hernandez, and failed to provide an accounting despite her requests for one.

217. Respondent did not respond to this letter.

218. On October 20, 2012, Machado sent Respondent a second letter and again requested an accounting.

219. Respondent did not respond to this letter.

COUNT FIFTEEN (File No. 13-1141)

220. On October 4, 2012, Respondent and Miguel Montano (Montano) executed a flat fee agreement in the amount of $10,000.00 pursuant to which Respondent agreed to represent Montano and his wife, Irma Gallego, in removal proceedings.

221. Montano and his wife have three children who are U.S. citizens.

222. Respondent informed the State Bar that Montano's children were qualifying relatives for purposes of cancelling Montano's removal but that it would be difficult to demonstrate the requisite hardship to these qualifying relatives.

223. On October 21, 2010, Respondent had another attorney cover a hearing for him in immigration court relating to Montano. At this hearing, the immigration court ordered the submission of written pleadings by January 20, 2011 and scheduled another hearing for the same date.

224. Respondent failed to file the written pleadings by January 20, 2011.

225. On January 20, 2011, Respondent had yet another attorney cover a hearing for him in immigration court relating to Montano. The immigration court scheduled a final hearing for November 29, 2011 and ordered that Montano's application for cancellation of removal be filed no later than November 8, 2011.

226. Respondent failed to file the application for cancellation of removal with the immigration court.

227. On November 29, 2011, Respondent attended a hearing before the immigration court on behalf of Montano and requested a continuance, which the immigration court granted.

228. The immigration court subsequently rescheduled Montano's final hearing for May 13, 2013.

229. In approximately April of 2013, Montano terminated Respondent and retained new counsel.

230. Prior to the May 13, 2013 hearing, Montano contacted Respondent to obtain his file. Respondent did not promptly provide Montano his file and did not provide Montano his file prior to the May 13, 2013 hearing.

231. At the May 13, 2013 hearing, the immigration court provided a new hearing date of December 5, 2013 and a new due date for the application for cancellation of removal.

232. With the exception of when he attended hearings with Montano, Respondent did not communicate with Montano.

COUNT SIXTEEN (File No. 13-0914)

233. Rosita Machado (Machado) was born in Mexico in 1949. Machado's mother, however, was born in the U.S.

234. On December 10, 2010, Respondent and Machado entered a flat fee agreement for $2,000.00 and Respondent agreed to file an application for certificate of citizenship, form N-600, for Machado.

235. Respondent advised Machado that she was eligible to file form N-600 and obtain a certificate of citizenship, which establishes that a person became a U.S. citizen on a particular date.

236. Certain documentation must be provided to the USCIS when filing form N-600, including documentation establishing that the U.S. citizen parent resided in

the U.S. for ten years prior to the petitioner's birth and that at least five of these years were after the parent was 16 years old.

237. Additionally, Machado would not be eligible to file a form N-600 if she already filed such a form and received a decision from the USCIS on such previously filed form N-600.

238. Machado did not have the requisite evidence showing that her mother lived in the U.S. for the required time frames.

239. Respondent was aware that Machado did not have the requisite evidence showing her mother lived in the U.S. for the required time frames and was also aware that Machado previously filed a form N-600 with the USCIS in 2008.

240. Despite this knowledge, Respondent agreed to file a form N-600 for Machado.

241. Respondent partially completed form N-600 on behalf of Machado but never submitted it to the USCIS.

242. Despite never completing or submitting the form for Machado, Respondent never refunded Machado her fees.

243. During the course of his representation of Machado, Machado would request status updates from Respondent but Respondent would not provide her such updates.

COUNT SEVENTEEN (File No. 13-0936)

244. On September 19, 2011, Respondent and Juan Pedro Martinez (Martinez) executed a flat fee agreement for $3,000.00 "for the purpose of reviewing the immigration procedure of his wife."

245. Martinez is a naturalized U.S. Citizen and Respondent agreed to file a petition on so that his wife could legally reside in the U.S.

246. Martinez provided Respondent documentation showing his wife's immigration history. This documentation demonstrates Martinez's wife was deported on November 15, 1998, prohibited from entering the U.S. for a period of five years from her departure date, and determined inadmissible into the U.S. because she falsely represented herself to be a U.S. citizen when she is actually a citizen of Mexico. This documentation further demonstrates that Martinez's wife then reentered the U.S. on February 4, 2000, was again removed, and then advised to remain outside the U.S. for 20 years.

245. Despite this immigration history, Respondent informed Martinez that he would be able to assist him and his wife.

246. Respondent did nothing to assist Martinez's wife in obtaining legal admission into the U.S.

247. There was no immigration relief that Respondent could seek for Martinez's wife because of her immigration history.

248. Respondent never provided Martinez status updates and misinformed Martinez that he had attempted to or had scheduled an immigration-related appointment for his wife in Juarez, Mexico.

249. On or about November 18, 2012, Martinez's wife was detained by ICE. Martinez retained Respondent to obtain his wife's release on bond.

250. Martinez and Respondent executed a flat fee agreement on February 19, 2013 for $1,000.00. The fee agreement describes the scope of the representation as "the Assylum [sic] Process at Eloy Immigration Court, and no other matter."

251. Respondent entered his notice of appearance on behalf of Martinez's wife in immigration court on November 20, 2012. On the same date, Respondent filed a "motion requesting a bond hearing" and "bond sheets and exhibits" which state "[p]lease take into consideration that the detainee qualifies for adjustment of status through her husband's I-130 Petition for Alien Relative."

252. The court scheduled a bond hearing for November 29, 2012 and, on the same date, denied "[t]he request for a change in the custody status. . . ."

253. ICE requested that Martinez file an application for asylum on behalf of his wife and certain other documents. Respondent did not file the application for asylum and, instead, Martinez filed the application for asylum himself.

254. In April of 2013, Martinez terminated Respondent and twice requested his file from Respondent. Respondent never provided Martinez his file.

COUNT EIGHTEEN (File No. 13-1553)

255. Bonifacio Rodriguez (Rodriguez) is a citizen of Mexico who has resides in the U.S. illegally.

256. On October 5, 2010, Rodriguez was intoxicated, drove his vehicle into a trailer home, and injured one person.

257. On October 15, 2010, Rodriguez was indicted for aggravated assault, aggravated driving under the influence, criminal endangerment, and criminal damage.

258. Around the same time, the USDHS commenced removal proceedings against Rodriguez.

259. On April 7, 2011, Respondent and Rodriguez executed a flat fee agreement for $5,000.00 pursuant to which Respondent agreed to represent Rodriguez "with his DUI case and Immigration matters."

260. Respondent, however, only assisted Rodriguez with his immigration case and a public defender represented Rodriguez in his criminal case.

261. Around this time, Rodriguez informed Respondent that he had a personal medical condition. Even though this information was relevant to filing an asylum application, Respondent informed Rodriguez that this was not relevant to his immigration proceedings.

262. On May 20, 2011, Rodriguez pled guilty to endangerment, a class six felony, aggravated driving under the influence, a class four felony, and criminal damage, a class six felony.

263. On June 17, 2011, the court sentenced Rodriguez to probation and one year in prison.

264. On March 8, 2012, Respondent appeared for an immigration court hearing on behalf of Rodriguez. At this hearing, the immigration court instructed Rodriguez that the government's position is that he is inadmissible because he was convicted of a crime of moral turpitude. The immigration court then provided Respondent a "continuance for preparation" until September 6, 2012. It also ordered Respondent to submit written pleadings by the same date informing the court "of all forms of relief, [and] restrictions on removal. . . ."

265. On September 6, 2012, Respondent filed "written pleadings" on behalf of Rodriguez. In the written pleadings, Respondent states that his client "concedes the charges of removability but applies for relief for . . . cancellation of removal. . ."

266. On September 6, 2012, Respondent appeared on behalf of Rodriguez in immigration court. Respondent was an hour late for the hearing.

267. The immigration court addressed Respondent's tardiness and the written pleadings he filed stating: "But because of the demands of the court, it did not cause delay and I'm not going to report you for that, but I don't understand the written pleadings, okay? You're conceding the charges. . . . One of the charges is that respondent was convicted of a crime involving moral turpitude. . . . [W]hen an individual concedes the charges . . ., he is not permitted to seek cancellation of removal . . . because one of the requirements of such relief is that the respondent not be convicted of a crime involving moral turpitude. So what are we doing?"

268. Respondent responded that it "was a mistake to concede the charge" and "we deny the conviction."

269. The immigration court asked Respondent whether his client feared returning to Mexico and Respondent replied in "[n]o." The court then asked Rodriguez "[i]f I send you back to Mexico, do you have any fear that you will be persecuted or tortured for any reason by anybody." Rodriguez responded "probably yes."

270. The immigration court then scheduled a final hearing for February 25, 2013 and instructed Respondent to submit an application for asylum by February 25, 2013 if his client wished to submit such an application.

271. The immigration court concluded that the next hearing would only concern whether the government present evidence that Rodriguez was convicted of a crime of moral turpitude. It explained: "If I sustain the charge, he will not be

eligible for cancellation of removal and I will not permit him to submit that application. If he submits an application for asylum however, he is still eligible for that. . . ."

272. On February 25, 2013, Respondent attended the next immigration court hearing on behalf of Rodriguez. Respondent provided the immigration court with an asylum application for Rodriguez. This asylum application did not reference Rodriguez's personal medical condition despite the fact that this provides possible grounds for asylum.

273. The immigration court reviewed the asylum application and observed that it was incomplete. Specifically, it observed that Respondent checked the box stating that his client fears harm or mistreatment if returned to his home country but Respondent did not give any explanation as why. The court further observed that: "And it [the asylum application] says if yes, explain in detail what harm or mistreatment you fear, who you believe would harm or mistreat you, and why you believe you would or could be harmed or mistreated, and there's nothing in there. Additionally, in question one, you did not check either or any of the boxes indicating the basis for your asylum claim. Can you explain why that was not done?"

274. Respondent then asked if he could confer with his client and the immigration court stated "[t]hat's what you're supposed to have done." Respondent conferred with Rodriguez and then informed the immigration court that his client is "afraid of the violence . . . in Mexico and that he fears that the Government cannot control that in Mexico. . . ."

275. The immigration court noted that that Rodriguez did not file the asylum application within a year of entering the U.S. and questioned Rodriguez about this. Rodriguez testified that he became fearful of the violence in Mexico in 1996 when

some of his relatives died there. Respondent indicated that he did not want to question Rodriguez concerning the one year filing deadline.

276. The immigration court then found that Rodriguez's criminal conviction involved crimes of moral turpitude. The immigration court, therefore, stated that it was going to deny any application for cancellation of removal and would also deny any application for asylum because "the respondent has not met the one-year filing deadline and . . . has not provided any good reason why he did not do so. . . ."

277. The immigration court noted that its denial of the asylum application "does not preclude the respondent from seeking withholding of removal either under the Act or under the Convention Against Torture or deferral of removal under Convention Against Torture."

278. Rodriguez subsequently retained new counsel who is appealing the removal order because of deficiencies in the asylum application that Respondent submitted.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ERs 1.1, 1.2, 1.3, 1.4, 1.5(a), 1.5(b), 1.5(d)(3), 1.15(d), 1.16(d), 3.1, 3.2, 3.4(c), 8.4(c), 8.4(d), and Rule 54(c).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss the allegation in count one of the Amended Complaint that Respondent violated ER 1.7 because of evidentiary issues.

The State Bar has also agreed to dismiss the allegation in count eight of the Amended Complaint that Respondent violated ER 8.1(b) because Respondent eventually responded to Bar Counsel's request for information as summarized in paragraph 209 of the Amended Complaint.

The State Bar has also conditionally agreed to dismiss three screening files in exchange for this agreement for a five year suspension and the other conditions set forth herein. Due to the similarity with other matters in which Respondent has admitted misconduct and because Respondent has agreed to a five year suspension, the State Bar believes the public will be sufficiently protected. The dismissed matters would not have increased the sanction imposed. The parties agree that Respondent will participate in fee arbitration in each of these dismissed matters. (*See* paragraph C above). The three dismissed screening files are file numbers 13-1968 (Villareal), 13-2252 (Hernandez), and 13-2705 (Esquer).

RESTITUTION

Respondent agrees to pay restitution to the following complainants in the following amounts within sixty (60) days of entry of the final judgment and order in this matter: (1) File no. 12-3271 in the amount of $2,500.00 to Maria Haydee Arellano; (2) File no. 13-0914 in the amount of $2,000.00 to Rosita Machado; and (3) File no. 13-0936 in the amount of $3,000.00 to Juan Pedro Martinez.

Additionally, Respondent will be required to repay any unearned fees as determined by the fee arbitrator assigned to each file listed in Paragraph C above.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanction is appropriate:

A. Respondent shall be suspended from the practice of law in Arizona for a period of five years;

B. Respondent agrees to pay restitution as set forth above;

C. Respondent agrees to participate in mandatory fee arbitration as set forth above;

D. Respondent agrees to pay outstanding amounts due to LOMAP as set forth above;

E. Upon reinstatement, Respondent shall be placed on probation for a period of two years, under terms to be determined at the time of reinstatement but that shall include:

i. Respondent shall participate in LOMAP; and

iii. Respondent shall have a practice monitor approved by LOMAP and Bar Counsel who will advise Respondent in the substantive area of law in which he practices as well as advise and supervise him regarding law practice management and ethics.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to

Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley,* 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 4.41 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 4.41 provides that disbarment is generally appropriate when: (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

The parties agree that Respondent engaged in a pattern of neglect, including by failing to timely file applications for cancellation of removal and by failing to inform his clients of deportation orders, and that some of Respondent's failures were knowing. The parties further agree that Respondent's actions caused serious injury to his clients, including because some of Respondent's clients were ordered deported.

The duty violated

As described above, Respondent's conduct violated his duty to his clients, the profession, and the legal system.

The lawyer's mental state

For purposes of this agreement, the parties agree that Respondent knowingly failed to complete work and communicate with clients, and that his conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

Respondent's conduct caused actual injury to his clients, the profession, and the legal system.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is disbarment. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(a): Prior disciplinary history. On April 12, 2013, Respondent was reprimanded and placed on probation in PDJ No. 2012-9109 for violations of ERs 1.1, 1.2(a), 1.3, 1.4, 1.5(b), 1.8(h), 1.16(d), 3.2, 3.4(c), and 8.4(d).

Standard 9.22(c) and (d): A pattern of misconduct and multiple offenses. There was a clear pattern of misconduct in this case due to the number of similar fact patterns. The amended complaint itself includes eighteen counts.

Standard 9.22(g): Vulnerability of victims. Many of Respondent's clients were illegally in the United States, did not speak English, did not understand the legal system in the United States, and were in removal proceedings.

In mitigation:

Standard 9.32(e): Full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

Discussion

The parties have conditionally agreed that a lesser sanction would be appropriate under the facts and circumstances of this matter. This agreement was based on the following: Although disbarment is the presumptive sanction, the State Bar gives great weight to Respondent's full and free disclosure to the State Bar and cooperative attitude toward these proceedings. Additionally, a five year suspension will protect the public as much as disbarment given that Respondent will have to wait five years to apply for reinstatement and will have to take the bar examination regardless of whether the sanction is disbarment or suspension. *See* Ariz. R. Sup. Ct. 64(c).

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of a five year suspension, participation in fee arbitration as outlined above, the restitution outlined above, and upon reinstatement, a two-year probation consisting

of LOMAP with conditions described above, and the imposition of costs and expenses.

A proposed form order is attached hereto as Exhibit "B."

DATED this 3rd day of January, 2014.

STATE BAR OF ARIZONA

Nicole S. Kaseta
Staff Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation. I acknowledge my duty under the Rules of the Supreme Court with respect to discipline and reinstatement. I understand these duties may include notification of clients, return of property and other rules pertaining to suspension.

DATED this 2nd day of January, 2014.

Roberto Salazar
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
this 7th day of January, 2014.

Copies of the foregoing mailed/emailed
this 7th day of January, 2014, to:

Roberto Salazar
Salazar Law Firm PLLC
3003 North Central Avenue, Suite 690
Phoenix, Arizona 85012-2924
Email: roberto@quelepaso.com
Respondent

Copy of the foregoing emailed
this 7th day of January, 2014, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov
lhopkins@courts.az.gov

Copy of the foregoing hand-delivered
this 7th day of January, 2014, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

By: Jackie Devender
NSK:jld

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA, **ROBERTO SALAZAR,** **Bar No. 023444** Respondent.	**PDJ-2013-9074** **FINAL JUDGMENT AND ORDER** State Bar Nos. 12-3236, 12-3257, 12-3271, 12-3372, 13-0029, 13-0030, 13-0415, 13-0594, 13-0608, 13-0704, 13-0852, 13-0914, 13-0934, 13-0936, 13-0969, 13-1134, 13-1141, 13-1553 **FILED JANUARY 16, 2014**

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on January 7, 2014, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Roberto Salazar**, is hereby suspended for a period of five (5) years for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this Order.

IT IS FURTHER ORDERED that Respondent shall pay restitution in the following amounts to the following complainants within sixty (60) days of entry of the final judgment and order:

Marie Haydee Arellano (file no. 12-3271): $2,500.00

Rosita Machado (file no. 13-0914): $2,000.00

Juan Pedro Martinez (file no. 13-0936): $3,000.00

IT IS FURTHER ORDERED that Respondent shall participate in fee arbitration with the following complainants:

Juan Coronado (file no. 12-3236)

Veronica Gonzalez (file no. 12-3257)

Hector Estudillo (file no. 12-3372)

Guadalupe Lopez Leyva (file no. 13-0029)

Rodriguez Valenzuela (file no. 13-0030)

Irma Carina Gallego (file no. 13-0415)

Rosa Maria Rico Ocano (file no. 13-0608)

Griselda Hernandez (file no. 13-0704)

Israel Madero-Navarro (file no. 13-0852)

Blanca Salazar (file no. 13-0934)

Ricardo Wilson Saitas (file no. 13-0969)

Maria Machado (file no. 13-1134)

Miguel Montano (file no. 13-1141)

Juan Pedro Martinez (file no. 13-0936)

Bonifacio Rodriguez (file no. 13-1553)

Dora Molina Villareal (file no. 13-1968)

Sergio Hernandez (file no. 13-2252)

Sylvia Esquer (file no. 13-2705)

IT IS FURTHER ORDERED that Respondent shall initiate fee arbitration with the above listed complainants within ninety (90) days from entry of this final judgment and order in this matter, shall provide proof that he timely initiated the fee arbitration process to the State Bar, and shall pay any fee arbitration award within thirty (30) days from the date the fee arbitrator issues the award.

IT IS FURTHER ORDERED that Respondent shall pay the amount of $937.50 to the State Bar's Law Office Management Assistance Program (LOMAP) within sixty (60) days from the date of entry of this final judgment and order.

IT IS FURTHER ORDERED that, upon reinstatement, Respondent shall be placed on probation for a period of two (2) years.

IT IS FURTHER ORDERED that, as part of his probation upon reinstatement, Respondent shall participate in LOMAP for two (2) years and have a practice monitor who will assist him in the substantive area of law in which he practices, as well as advise and supervise him regarding law practice management and ethics.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge as a result of reinstatement hearings held.

IT IS FURTHER ORDERED that, pursuant to Rule 72 Ariz. R. Sup. Ct., Respondent shall immediately comply with the requirements relating to notification of clients and others.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of $5,089.25. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 16th day of January, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
of the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 16th day of January, 2014.

Copies of the foregoing mailed/emailed
this 16th day of January, 2014, to:

Roberto Salazar
Salazar Law Firm PLLC
3003 North Central Avenue, Suite 690
Phoenix, Arizona 85012-2924
Email: roberto@quelepaso.com
Respondent

Copy of the foregoing hand-delivered/emailed
this 16th day of January, 2014, to:

Nicole S. Kaseta
Staff Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: lro@staff.azbar.org

Sandra Montoya
Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: MSmith