DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of	:	
PAUL HAAR,	:	**Disciplinary Docket Nos. 2017-D005 and 2019-D124**
Respondent	:	
A Member of the Bar of the D.C. Court of Appeals	:	
(Bar Registration No. 368605)	:	

PETITION FOR NEGOTIATED DISCIPLINE

Disciplinary Counsel and Respondent agree to enter a negotiated discipline pursuant to D.C. Bar Rule XI, § 12.1 and Board Rule 17. Respondent is the subject of the above-referenced investigations by Disciplinary Counsel pursuant to D.C. Bar Rule XI § 6(a)(2), 8(a), and Board Rule 2.1.

Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals.

I. STATEMENT OF THE NATURE OF THE MATTERS

These matters were brought to Disciplinary Counsel's attention when Respondent's former clients filed complaints about Respondent's representation and the fees that Respondent charged them.

II. STIPULATION OF FACTS AND RULE VIOLATIONS

The conduct and standards that Respondent stipulates to are as follows:

1. Respondent was admitted to the Bar of the District of Columbia Court of Appeals on February 9, 1983, and assigned Bar number 368605.

Respondent's representation of Manuel Garza (DDN 2017-D005)

2. On May 3, 2003, Manuel Garza, a Guatemalan national, entered the United States.

3. On May 10, 2003, the government served Mr. Garza with a notice to appear (NTA) placing him in removal proceedings because he entered the U.S. without inspection. The NTA directed Mr. Garza to appear before the Immigration Court in Atlanta, Georgia, on October 15, 2003.

4. Mr. Garza failed to appear for the hearing on October 15, 2003, and the Immigration Court issued an in absentia order of removal.

5. On April 10, 2014, the Department of Homeland Security (DHS) issued an order of supervision placing Mr. Garza under the supervision of Immigration and Customs Enforcement (ICE) and directed him to appear in person at the DHS and ICE offices in Baltimore, Maryland on May 12, 2014.

6. On or about April 15, 2014, Mr. Garza retained Respondent to represent him in his immigration matter.

7. Respondent gave Mr. Garza an "Immigration Representation Agreement" dated April 15, 2014, stating that Respondent would charge $5,000,

plus filing fees, to file a Freedom of Information Act request and "to attempt to persuade U.S. Immigration and Customs Enforcement to grant a stay of removal based upon [Mr. Garza's] serious medical conditions . . ."

8. Mr. Garza paid Respondent $300 at their initial meeting.

9. Mr. Garza paid Respondent an additional $5,000 – $2,500 in April 2014, and $2,965 in November 2014 - $2,500 for the balance of Respondent's fee, and $465 to cover filing fees.

10. In the interim, Respondent accompanied Mr. Garza to reporting appointments at ICE in May 2014 and October 2014, for which Respondent charged additional fees of $500 each for each appointment.

11. Respondent did not provide anything in writing to Mr. Garza about these additional fees and the services that Respondent would provide in exchange.[1]

12. On or about November 19, 2014, Respondent sent DHS a letter with a proposed motion and supporting documents seeking its consent to a "joint motion to reopen an in absentia order and administratively close proceedings" based on Mr.

[1] The parties disagree as to whether Respondent's failure to provide Mr. Garza anything in writing about the additional flat fees that Respondent charged him for accompanying him to reporting meetings with ICE and submitting the I-765 forms, discussed in paragraphs 10, 14-15, and 21, violated Rules 1.5(b). Disciplinary Counsel has agreed not to pursue such a charge in the petition for negotiated discipline, particularly since it would not affect the sanction. However, if the petition is not approved, Disciplinary Counsel reserves the right to charge Respondent with violating Rule 1.5(b) in a contested proceeding and Respondent agrees that Disciplinary Counsel has not waived our right to do so.

Garza's medical condition.

13. DHS subsequently advised Respondent that it would not join in the motion. Respondent contends that he did not learn of the DHS's decision until May 2016, during a phone call.

14. On November 19, 2014, Respondent filed an I-765 Application for Employment Authorization on behalf of Mr. Garza with USCIS so that Mr. Garza could earn money to pay his living expenses. USCIS rejected the filing because Respondent had either not paid the filing fee or paid an incorrect amount. On December 16, 2014, Respondent resubmitted the I-765 with the correct filing fee, and USCIS approved it in April 2015.

15. In May 2015, Respondent quoted and collected another $500 from Mr. Garza to accompany him to an ICE appointment.

16. Sometime in July 2015, Respondent advised Mr. Garza to seek permanent residence by filing an employment-based petition. Mr. Garza was not eligible to receive permanent residence through an employment-based petition because he had entered the U.S. unlawfully.

17. On or about July 15, 2015, Respondent gave Mr. Garza a second fee agreement setting forth a fee of $8,000 to file an employment-based petition through Mr. Garza's employer Tito Construction. Pursuant to the fee agreement, Mr. Garza was required to pay Respondent $5,000 "at the outset of case", $2,000 to prepare a Form I-140 (Immigration Petition for Alien Worker), and $1,000 to file a Form I-

485 (Application to Adjust status).[2]

18. The first step in the employment-based petition process is the Program Electronic Review Management (PERM) process – or PERM labor certification process. With limited exceptions not applicable to Mr. Garza's situation, the federal law and regulations require the sponsoring employer, not the immigrant-employee, to pay all costs associated with this process including the legal fees.

19. Respondent communicated with Tito Construction about sponsoring Mr. Garza but collected all the fees directly from Mr. Garza.

20. Mr. Garza paid Respondent $5,000 in three installments - $1,000 in July 2015, $2,000 in December 2015, and another $2,000 in May 2016.

21. Respondent continued to quote and collect additional fees from Mr. Garza, including $580 in February 2016, $200 to file another I-765 and $380 for the filing fee, and $500 in May 2016 for another ICE visit.

22. Respondent did not provide Mr. Garza written fee agreements relating to his fees for submitting the I-765, or for Mr. Garza's ICE appointments.

23. On or about May 19, 2016, Respondent wrote Mr. Garza telling him that DHS would not agree to a joint motion to reopen his case and set aside the October 2003 in absentia order of removal. Respondent told Mr. Garza that he

[2] Respondent's agreement provided that his fee would be $8,400, but Respondent would provide a $400 discount if Mr. Garza agreed that Respondent could put the funds in his operating account and spend them.

should consider other options to avoid removal including (1) marrying a U.S. citizen; (2) filing a "U" visa as the victim of a qualifying crime; or (3) suffering from a "new" medical condition.

24. On November 23, 2016, Mr. Garza asked Respondent for a copy of his file and, after receiving it, filed a complaint stating that Respondent had collected more than $12,000 from him when Respondent knew that he did not have a case.

25. During the investigation, Disciplinary Counsel asked Respondent to explain how he could lawfully collect fees from Mr. Garza for the first stage of the employment-based petition discussed in paragraphs 16 through 20. When Respondent failed to respond, Disciplinary Counsel followed up several times. Respondent still failed to respond to the inquiry.

26. Disciplinary Counsel also sent Respondent a subpoena *duces tecum* for the client file and his financial records, including all fee agreements. Respondent provided a copy of the client file after Disciplinary Counsel filed a motion to enforce its subpoena with the D.C. Court of Appeals. Disciplinary Counsel withdrew the motion after Respondent provided a copy of the client file.

27. On January 19, 2023, Respondent delivered to Disciplinary Counsel a bank check for $5,000 payable to Mr. Garza that Disciplinary Counsel provided to Mr. Garza.

28. Respondent's conduct in the Garza matter violated the following Rules of the District of Columbia Rules of Professional Conduct:

a. Rule 1.5(a) and (f), in that Respondent charged his client a $5,000 unlawful and therefore unreasonable fee in connection with the employment-based petition described in paragraphs 16-20;

b. Rule 8.1(b), in that Respondent knowingly failed to respond reasonably to a lawful demand for information from a disciplinary authority by failing to respond to repeated inquiries about his authority for collecting fees from Mr. Garza for the first stage of the employment-based petition;[3] and

c. Rule 8.4(d), in that Respondent engaged in conduct that seriously interfered with the administration of justice in that he failed to respond to Disciplinary Counsel's inquiries as set forth above.

Respondent's Representation of Mariia Chuta (DDN 2019-D124)

29. On September 16, 2013, Mariia Chuta, a Ukrainian national, was issued a Form I-551 Permanent Resident Card that granted her conditional permanent resident status based on her marriage to a U.S. citizen. Her conditional permanent resident status was only valid for two years, or until September 16, 2015.

30. If Ms. Chuta did not file a petition to remove the conditions on her permanent resident status, she risked losing her lawful status. The conditions could be removed by filing an I-751 motion establishing the bona fides of her marriage.

[3] Respondent contends that he did not intentionally fail to cooperate with Disciplinary Counsel's investigation and he eventually in 2022, during the negotiations related to this petition, admitted that he had charged and collected an unlawful fee from Mr. Garza.

31. In June 2015, Ms. Chuta talked to Respondent about her immigration status. Ms. Chuta told Respondent that she was granted conditional permanent resident status through her marriage that would expire on September 16, 2015. Ms. Chuta advised Respondent that she had separated from her husband but wanted to make sure she did not lose her legal status.

32. Ms. Chuta told Respondent that her husband was not communicating with her and would not help her in her immigration matter. According to Respondent, the only documentation Ms. Chuta had relating to her marriage were wedding photos and a joint tax return.

33. Respondent counseled Ms. Chuta in June 2015 that she could pursue an employment-based petition to obtain a green card or permanent residence.

34. Respondent did not explain to Ms. Chuta that if she did not file a Form I-751 to remove the conditions on her permanent residence before September 16, 2015, that, pursuant to 8 CFR § 216.2, her "failure to apply for removal of conditions w[ould] result in automatic termination of [her] lawful status in the United States" and the government could issue a NTA and place her in removal proceedings.

35. Respondent contends that a loss of status under 8 CFR § 216.2, would not result in removal until a U.S. Immigration Judge revoked her status and ordered her removal, but could not cite any regulation or case law to support his contention that only a U.S. Immigration Judge could revoke the status. Respondent further contends that he believed the risk of removal was insignificant if Ms. Chuta filed an

employment-based petition.

36. Respondent did not explain to Ms. Chuta that her failure to file a timely Form I-751 could cause the immigration authorities to question the bona fides of her marriage. Respondent, however, contends that he told Ms. Chuta in June 2015 that the immigration authorities would question the bona fides of her marriage because the only documents she had were a joint tax return and some wedding photos. Respondent further contends that he told Ms. Chuta she could file an individual Form I-751 (*i.e.*, not a joint form with her husband) at any time.

37. Respondent did not explain to Ms. Chuta in 2015 that when her status expired in September 2015 and after she had failed to maintain continuous lawful status for 180 days, she would not be eligible to adjust her status to permanent residency based on her employment unless she returned to Ukraine to complete the process. Respondent, however, contends that he told Ms. Chuta that it was "possible" that she would have to return to Ukraine.

38. Respondent's representation agreement provided some information to Ms. Chuta about his fees, but she did not understand how much more she would have to pay to pursue an employment-based petition and how long it would take. Respondent claims that he told Ms. Chuta that it could cost up to $20,000 and that because there were several stages to the process, pursuing an employment-based petition would take longer than seeking permanent resident status based on her marriage.

39. Based on the advice and information that Respondent provided, Ms. Chuta agreed to retain him to pursue an employment-based petition through her employer Toigo Orchards.

40. On June 16, 2015, Respondent provided Ms. Chuta an "Immigration Representation Agreement" stating that he would charge $10,000 plus filing fees to prepare an employment-based permanent residence application - $6,000 to prepare a Form 9089 (application for permanent employment certification), $3,000 to prepare a Form I-140 (Immigration Petition for Alien Worker), and $1,000 to file a Form I-485 (Application to Adjust status).[4] Respondent said that his fee would not include responses to the Department of Labor or representation before the Immigration Court, for which he would charge additional fees at $500/hour.

41. Respondent filed the Form 9089 with the Department of Labor on June 28, 2017.

42. By that time, Respondent had collected $7,000 fees from Toigo Orchards. Although Toigo made payments to Respondent for his fees and expenses, Toigo required Ms. Chuta to reimburse it for those payments. Toigo Orchards deducted funds from Ms. Chuta's pay checks to cover all the fees and expenses it paid to Respondent. Respondent claims he did not know that Ms. Chuta was paying

[4] Respondent's fee agreement provided that the fee would be $10,500, but Respondent would charge $10,000 if Ms. Chuta agreed that Respondent would not have to hold her funds in trust, but deposit them in his operating account and spend them.

all his fees and the expenses associated with the representation.

43. In October 2017, Respondent charged an additional $2,000 fee to respond to an audit notification letter, which Toigo paid and then collected from Ms. Chuta over time.

44. On February 7, 2018, Respondent charged an additional $5,925 in fees and costs – $4,000 to file the 1-140 petition, which was $1,000 more than he said he would charge in his fee agreement, plus $1,925 for filing fees – which Toigo paid and then collected from Ms. Chuta over time. Respondent claimed that he was not aware of the overbilling until he was notified by Disciplinary Counsel in September 2022. After Disciplinary Counsel provided Respondent a written statement from Toigo confirming that it had deducted this and all other funds advanced on behalf of Ms. Chuta, Respondent sent Ms. Chuta a check for $1,000 on November 22, 2022.

45. On February 12, 2018, Respondent emailed a representative of the USCIS asking if it "would consider adjudicating an employment-based 1-485 for an applicant who never filed an I-751, terminating her conditional residence in the process." As stated above, Respondent contends that conditional residents maintain their status until a U.S. immigration judge revokes their status.

46. On February 17, 2018, Respondent emailed Ms. Chuta that he would proceed with the Form I-140, but the last step in the process "required her to make a decision." Respondent gave Ms. Chuta the following options:

A. USCIS could terminate her conditional residence for failing to timely file a Form I-751, and Respondent could then pursue the employment-based petition by filing a Form I-485 before USCIS;

B. USCIS could issue a NTA placing Ms. Chuta in removal proceedings and Respondent could pursue the Form I-485 before the Immigration Court;

C. Ms. Chuta could submit a joint Form I-751 to USCIS if she could persuade her husband to file and affirm that they entered the marriage in good faith;

D. Ms. Chuta could secure a divorce and submit a good faith marriage waiver Form I-751; or

E. Ms. Chuta could travel to Ukraine and file a Form I-407 with the Consulate relinquishing her residency, withdraw her conditional residence, then appear for an employment-based immigrant visa.

47. Ms. Chuta told Respondent that the best options were A or B because she did not want to go back to Ukraine, and she did not think her husband would sign any paperwork.

48. In 2018, Ms. Chuta told Respondent that she had evidence to show that her marriage was entered in good faith. According to Respondent, her documentary proof was limited to what was she had in 2015, which is described in paragraph 32 above.

49. On February 21, 2018, Respondent emailed USCIS requesting it to issue an NTA to Ms. Chuta and place her in removal proceedings. The USCIS representative responded that Respondent should send a request for the issuance of an NTA.

50. On February 21, 2018, Respondent emailed Ms. Chuta that he had

asked USCIS to issue an NTA and that USCIS would not revoke her conditional permanent resident status while it considered her employment-based petition.

51. Ms. Chuta did not understand the risks associated with having USCIS issue a notice to appear and placing her in removal proceedings. Respondent claims that he told her that if she were placed in removal proceedings, she would have to prove the bona fides of her marriage.

52. On February 27, 2018, Ms. Chuta emailed Respondent information about her marriage. Respondent contends that the information and documents she provided had not changed since 2015.

53. On or about March 6, 2018, Respondent submitted a Form I-140 on behalf of Toigo Orchards with Ms. Chuta as the beneficiary. USCIS requested additional information and documentation, which Respondent supplied. Respondent charged an additional $5,000 fee to respond to USCIS's requests, which Toigo paid and collected from Ms. Chuta over time.

54. On June 15, 2018, USCIS notified Respondent that it had approved the Form I-140.

55. On June 19, 2018, Respondent emailed Ms. Chuta a copy of his February 21, 2018 email requesting her permission to have the USCIS issue a NTA and put her in removal proceedings.

56. Based on the information that Respondent provided to her, Ms. Chuta agreed with Respondent's request.

57. On June 19, 2018, Respondent emailed a representative of USCIS and asked them to issue a NTA for Ms. Chuta.

58. Three days later, on June 22, 2018, Respondent emailed Ms. Chuta stating that he had "just learned" that on February 6, 2018, USCIS had issued a NTA terminating Ms. Chuta's conditional residence for failure to file a timely Form I-751 and placed her in removal hearings for which there would be a Master Calendar hearing on May 15, 2019.

59. In his June 22, 2018 email, Respondent told Ms. Chuta that she now had two options: (1) file a Form 1-751, or (2) pursue an employment-based visa by asking the Immigration Judge to terminate her residence and having her appear for an immigration visa interview at the consulate in Kiev, Ukraine, based on the approved I-140 petition. Respondent said to "jump start the process," he had prepared a Form 1-751, for which he charged a $3,000 fee, plus $680 for the filing fee. Toigo also advanced these fees and expense and collected them from Ms. Chuta over time.

60. Because the information and documents that Ms. Chuta had to prove the bona fides of her marriage had not changed since 2015, Respondent advised her that they would need affidavits from her friends and relatives who had personal knowledge about the marriage.

61. On or about August 30, 2018, Respondent filed a Form 1-751 on behalf of Ms. Chuta, supported by her affidavit and the affidavits of others.

62. On September 5, 2018, USCIS issued a notice of action extending Ms. Chuta's conditional residence status based on the Form 1-751, "for 18 months from the expiration date on [her] Form I-551, Permanent Residence Card." Because Ms. Chuta's conditional residence card expired on September 16, 2015, the 18-month extension was only through March 2017.

63. On October 5, 2018, Respondent told Ms. Chuta she should get an I-551 stamp on her passport as additional evidence of her ability to work, travel, and obtain a Pennsylvania driver's license.

64. Respondent claims that if Ms. Chuta got an 1-551 stamp on her passport, it would extend her conditional residence beyond March 2017 for one year and thereafter for one-year increments for each successive I-551 stamp.

65. On October 15, 2018, Ms. Chuta emailed Respondent that she had lots of concerns and was "very stressed" about her status and asked where she was in the process. Ms. Chuta told Respondent she was "scared" about traveling outside the U.S. without knowing that she would be allowed back in without problems. Respondent responded that same day as follows:

> Relax. All is good. Form I-140 approved. Form I-751 pending, automatically extending your conditional residence. You should be able to secure Pennsylvania driver's license and travel abroad. INFOPASS at Philadelphia or Pittsburgh USCIS Field Office is to try to secure an I-551 stamp in your passport to confirm that your conditional residence is extended for one year from the date of the stamp.

66. When Ms. Chuta's shared Respondent's advice with her manager, he

urged her to get a second opinion. The lawyer who Ms. Chuta consulted told her she should not leave the country and, if she did, there was a substantial risk she would be denied re-entry. Respondent has no knowledge of Ms. Chuta's conversations with others.

67. Ms. Chuta later asked Respondent why he had delayed filing the Form I-751. An associate in Respondent's firm responded on his behalf, claiming that she could file a Form I-751 anytime, it did not matter that her "green card" already had expired, and that given the "changing immigration policies of the Trump administration, [the firm] wanted to make sure [it was] pursuing all options available to [her]."

68. Before the May 2019 Master Calendar hearing in the removal proceedings, Ms. Chuta discharged Respondent and retained new counsel.

69. By that time, Respondent had collected $22,000 for fees and expenses to pursue an employment-based petition for permanent residence. This sum is separate from the fees and expenses that Respondent charged for preparing and filing the Form I-751.

70. In May 2019, Ms. Chuta filed a complaint against Respondent alleging that he had failed to pursue her immigration matter based on her marriage until years into the representation and only after she lost her legal status, was placed in removal proceedings, and Respondent had charged and collected more than $22,000 for an employment-based petition.

71. Through successor counsel, Ms. Chuta pursued permanent residence status based on her marriage.

72. Respondent's conduct in the Chuta matter violated the following Rules of the District of Columbia Rules of Professional Conduct:

a. Rules 1.1(a) and 1.1(b), in that Respondent failed to provide competent representation and failed to serve his client with the skill and care commensurate with that generally afforded to clients by other lawyers in similar matters because he failed to pursue and file a Form 1-751 on behalf of his client until three years after she retained him and three years after her conditional permanent residence status had expired;

b. Rule 1.2(a), in that Respondent failed to consult adequately with his client as to the means by which the objectives of the representation could be pursued, including by failing to advise his client about the advantages of filing and the consequences for not filing a Form I-751 Form *before* her conditional permanent residence status expired, and the material risks and alternatives of pursuing only an employment-based petition for permanent residence for the first three years of the representation;

c. Rule 1.3(c), in that Respondent failed to act with reasonable promptness in representing his client, including by failing to file a Form I-751 until three years after he was retained and after his client's conditional permanent residence had expired;

d. Rule 1.4(b), in that Respondent failed to explain matters to the extent reasonably necessary to permit his client to make informed decisions regarding the representation;

e. Rule 1.5(a), in that Respondent charged his client an unreasonable fee with respect to the $1,000 he overcharged (which was refunded in late November 2022); and

f. Rule 1.16(d), in that in connection with the termination of the representation, Respondent failed to take timely steps to return the $1,000 in excess fees that he charged and did not earn.

III. STATEMENT OF PROMISES MADE BY DISCIPLINARY COUNSEL TO RESPONDENT

In connection with this Petition for Negotiated Disposition, Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II, *supra,* other than the Rule violations set forth above, or any sanction other than that set forth below. However, as set forth in footnote 3, if the petition for negotiated discipline is not accepted, Disciplinary Counsel reserves the right to charge Respondent with violating Rule 1.5(b) in a contested proceeding.

Disciplinary Counsel further agrees that the conduct described above does not constitute a probation violation under the suspension order entered against Respondent on February 24, 2022 in DCCA No. 19-BG-554, and Disciplinary Counsel agrees not to pursue any such charge.

IV. AGREED-UPON SANCTION

A. Agreed Sanction

Respondent and Disciplinary Counsel have agreed that the appropriate sanction for the stipulated misconduct and rule violations in this matter is a 180-day suspension, 90 days stayed, with the requirement that Respondent refund $5,000 to Mr. Garza, and $22,000 to Ms. Chuta. As discussed below, Respondent delivered to Disciplinary Counsel a $5,000 bank check dated January 19, 2023, payable to Mr. Garza. Respondent already has refunded $1,000 to Ms. Chuta and has agreed to provide her an additional refund of $21,000 by no later than the end of his 90-day served suspension. If Respondent does not refund the remaining $21,000 to Ms. Chuta by the end of the 90-day served suspension, he agrees that his suspension will continue until he pays the entire $21,000.

B. Relevant Precedent

The Court has imposed a wide range of sanctions for violations of Rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.16, 8.1(b), and 8.4(d), including suspensions with a fitness requirement and, when combined with dishonest conduct, disbarment. *See, e.g.*, *In re Bailey*, 21-BG-476 (D.C. Oct. 13, 2022) (one-year suspension with a fitness requirement for violations of Rules 1.4, Rule 1.5(a) for charging excessive fees, 1.5(e), Rule 8.4(c) for overbilling and false billing entries, and 8.4(d) for failing to comply with subpoena for records); *In re Johnnie L. Johnson, III*, 275 A.3d 268 (D.C. 2022) (disbarment for charging unlawful and unreasonable fees, combined

with multiple instances of dishonesty, and aggravated by false testimony at the disciplinary hearing); *In re Laurence F. Johnson*, 158 A.3d 913 (D.C. 2017) (90-day suspension, 60 days stayed in favor of probation for one year for violating Rules 1.1, 1.3, 1.4, 1.15, 1.16, and 8.4(c) and (d) in representing two immigration clients); *In re Douglass*, 859 A.2d 1069 (D.C. 2004) (90-day suspension for violation of Rules 1.1(a) and (b), 1.3(a) and (c), 1.8(a), and 1.16(d)); *In re Perez*, 828 A.2d 206 (D.C. 2003) (60-day suspension with a fitness requirement for neglect and intentional conduct violating Rules 1.1(a) and (b), 1.3(a), (b)(1) and (b)(2), and 1.4, that prejudiced a vulnerable client); *In re Bernstein*, 774 A.2d 309 (D.C. 2001) (nine-month suspension with reinstatement conditioned on payment of restitution for charging unlawful and unreasonable fee, commingling, and dishonesty for concealing from client the fee award was less than what respondent charged and collected from client); *In re Drew*, 693 A.2d 1127 (D.C. 1997) (60-day suspension for violation of Rules 1.1(a) and (b), 1.3(a) and (b)(1), 1.5(b), 1.16(d), and 8.4(d)); *In re Ryan*, 670 A.2d 375 (D.C. 1996) (four-month suspension with a fitness requirement for misconduct in representation of five clients that violated Rules 1.1, 1.3, 1.4, 1.8(i), and 1.16(d) and/or the predecessor DRs under the Code; the failure of a client to fulfill a retainer agreement was not a defense).

C. Circumstances in Aggravation and Mitigation of Sanction

A 180-day suspension, with 90 days stayed, is justified because it is within the range of sanctions that could be imposed for Respondent's misconduct in two

client matters and takes into account certain aggravating and mitigating factors, including that: (a) Respondent has prior discipline; (b) Mr. Garza was financially harmed in that he paid $5,000 in fees that were unlawfully charged to him; (c) Ms. Chuta also was harmed because she lost her legal status, was placed in removal proceedings, and her claim for residency based on her marriage has been delayed significantly (although she has not been ordered removed); (d) Respondent has taken responsibility for his misconduct by entering into this petition for negotiated discipline; (e) Respondent agreed to provide a refund of $5,000 to Mr. Garza and tendered to Disciplinary Counsel a check for $5,000 payable to Mr. Garza, which has been delivered to Mr. Garza; (f) Respondent already has refunded $1,000 to Ms. Chuta for the amount overbilled; and (g) Respondent has agreed to provide an additional $21,000 refund to Ms. Chuta by no later than the end of his served 90-day suspension.

WHEREFORE, the Office of Disciplinary Counsel requests that the Executive Attorney assign a Hearing Committee to review the petition for negotiated disposition pursuant to D.C. Bar Rule XI, § 12.1(c).

Respectfully submitted,

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