

2. On April 30, 2006, Denise Johnson filed an I-130 Form, seeking to petition for her husband, John Andoh to be able to remain in the U.S. and adjust his status to permanent resident. Mr. Andoh concurrently filed an application I-485 so that he could obtain a green card based on his employment.

3. On December 13, 2006, USCIS denied the I-130 petition and the I-485 application.

4. On February 8, 2007, Mr. Andoh was placed in removal proceedings.

5. On February 12, 2007, Ms. Johnson filed a second I-130 petition. USCIS issued a Notice of Intent to Deny this petition on December 16, 2011.

6. In December 2011, Mr. Andoh retained Respondent to assist him in responding to USCIS's Notice of Intent to Deny the second I-130 petition. Respondent provided Mr. Andoh two receipts one for \$1,000 dated December 23, 2011, and one for \$250 dated January 11, 2012. The I-130 petition was denied on March 26, 2012.

7. On March 29, 2012, Mr. Andoh signed a retainer for Respondent to represent him in an appeal before the Board on Board of Immigration Appeals. Respondent told Mr. Andoh the legal fee was \$3,500.

8. On April 25, 2012, Respondent filed a notice of Appeal of I-130 with the United States Citizen and Immigration Services (USCIS) office in Baltimore. On his notice, Respondent indicated that a separate brief would be filed.

9. Respondent filed a Notice of Entry of Appearance on behalf of Mr. Andoh but not Ms. Johnson. Only Ms. Johnson had standing to appeal because she was the one who filed the petition on behalf of her husband.

10. On May 21, 2012, one month after filing the notice to appeal, Respondent requested a 60-day extension to file a brief, which USCIS granted.

11. On July 13, 2012, Respondent requested a 15-day extension stating that he would undergo surgery, which extended the filing deadline to August 8, 2012.

12. Respondent failed to submit a brief of any supplemental materials by August 8, 2012.

13. On June 19, 2012, while the appeal of the denial of the I-130 was pending, Mr. Andoh retained Respondent to represent him before the Immigration Court to defend him in deportation proceedings.

14. Respondent presented Mr. Andoh with a retainer agreement for \$3,500 for the deportation proceedings and an additional \$1,500 for a trial if the I-130 appeal was successful.

15. On November 23, 2012, the Board of Immigration Appeals (BIA) denied the appeal on two grounds; (1) it lacked jurisdiction, and (2) Respondent had failed to identify the reason for the appeal. Respondent also had failed to file a written brief or statement despite requesting and receiving two extensions.

16. Respondent never advised Mr. Andoh that he had failed to file a brief. Respondent told Mr. Andoh that he would prevail in his case even if Respondent had to argue it to the Supreme Court.

17. Respondent filed a motion to continue the deportation proceedings. However, because Mr. Andoh's appeal was denied, the Immigration Court denied this request.

18. Mr. Andoh was given voluntary departure.

19. Between March 2012 and November 2018, Respondent presented Mr. Andoh with at least seven retainer agreements to appeal the BIA decision. Under the terms of these retainer agreements, the total fees Respondent charged was \$26,100.

20. Respondent never explained to Mr. Andoh that the initial BIA denial was the result of Respondent's error.

21. On December 21, 2012, Respondent filed a motion to reopen and/or reconsider the denial of the I-130 petition. Respondent stated to the court that he underwent surgery during the briefing period and that reopening of the case was justified for that reason.

22. On September 6, 2013, the BIA denied the motion to reopen because Respondent had failed to specify an error of fact or law in the BIA's denial.

23. On September 26, 2013, Respondent presented Mr. Andoh a third retainer agreement to appeal the BIA denial to the United States Court of Appeals for the Fourth Circuit for an additional fee of \$7,500.

24. Respondent filed a Petition for Review with the Fourth Circuit which was unsuccessful because it lacked jurisdiction to review the BIA's decision in an I- 30 case.

25. On November 23, 2015, Respondent presented Mr. Andoh with another retainer agreement to pursue the case before U.S. District Court for an additional fee of \$7,500.

26. On February 16, 2018, Respondent presented Mr. Andoh with another retainer agreement to file a reply brief with the U.S. District Court for an additional fee of \$1,600.

27. On June 8, 2018, the U.S. District Court granted the government summary judgment.

28. On July 2, 2018, Respondent appealed the U.S. District Court decision to the Fourth Circuit.

29. On November 11, 2018, Respondent presented Mr. Andoh with another retainer agreement to file a reply brief for an additional fee of \$3,500.

30. On March 7, 2019, the Fourth Circuit affirmed the District Court's summary judgment order.

31. In April 2019, Respondent filed a Motion for a Rehearing that was denied by the Fourth Circuit the following month.

32. Despite the numerous appeals filed, none of the courts considered the merits of Mr. Andoh's claim due to Respondent's failure to file the original appeal properly.

33. Respondent told Mr. Andoh that if they ran out of options for immigration relief, Mr. Andoh could return to Ghana which Respondent described as "a peaceful country."

34. Mr. Andoh did not want to leave the country and separate from his family.

35. In 2019, Mr. Andoh requested copies of the several appeals filed by Respondent. Although Respondent told him he would send them, he never did.

36. On January 14, 2020, Mr. Andoh filed a disciplinary complaint with the Office of Disciplinary Counsel.

37. When Disciplinary Counsel asked Respondent to produce records accounting for the legal fees he received, Respondent was unable to produce such records. Respondent only produced receipts for payments.

38. Respondent's conduct violated the following District of Columbia Rules of Professional Conduct:

- a. Rules 1.1(a) and 1.1(b), in that Respondent failed to provide competent representation to a client. Rule 1.3(a), in that Respondent failed to represent his client with zeal and diligence within bounds of the law;
- b. Rule 1.3(b), in that Respondent intentionally prejudiced the client during the course of the professional relationship; and
- c. Rule 1.4(a) and (b), in that Respondent failed to keep the client informed and failed to promptly comply with reasonable requests for information and failed to explain matters to the extent reasonably necessary to permit his clients to make informed decisions regarding the representation;
- d. Rule 1.5(a), in that Respondent charged an unreasonable fee to the client.
- e. Rule 1.15(a), in that Respondent failed to maintain complete financial records;
- f. Rule 1.16(d), in that Respondent failed to take timely steps to protect his client's interests by surrendering papers and property to which the client is entitled; and
- g. Rule 8.4(c), in that Respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Respectfully submitted,

/s/

Hamilton P. Fox, III
Disciplinary Counsel

/s/

Caroll G. Donayre
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
515 Fifth Street, N.W.
Building A, Room 117
Washington, D.C. 20001
(202) 638-1501

D. Procedures

(1) **Referral to Hearing Committee** - When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** - Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** - The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.

(4) **Mitigation** - Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** - Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

Office of Disciplinary Counsel

/s/ Hamilton P. Fox, III

Hamilton P. Fox, III

Disciplinary Counsel

515 Fifth Street, N.W.

Building A, Room 117

Washington, D.C. 20001

(202) 638-1501

Fax: (202) 638-0862