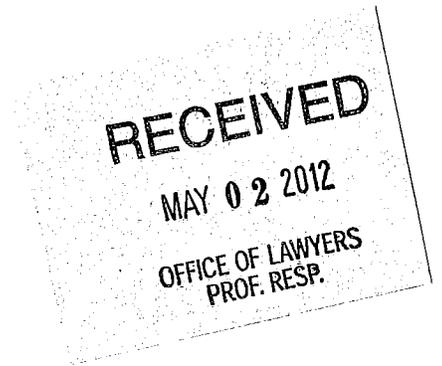


FILE NO. A11-1693  
STATE OF MINNESOTA  
IN SUPREME COURT



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In Re Petition for Disciplinary Action  
Against JOSEPH AWAH FRU,  
a Minnesota Attorney,  
Registration No. 342154.  
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**REFEREE'S  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
FOR DISCIPLINE**

The above-captioned matter was heard on March 8, 2012, by the undersigned acting as referee by appointment of the Minnesota Supreme Court. Siama Y. Chaudhary, Assistant Director, appeared on behalf of the Director of the Office of Lawyers Professional Responsibility (Director). Michael H. McGlennen appeared on behalf of respondent Joseph Awah Fru, who was personally present throughout the proceedings.

The hearing was conducted on the Director's September 21, 2011, petition for disciplinary action ("petition"). The Director presented the live testimony of Steven C. Thal and Marco Landoni. By agreement of the parties, the Director presented the affidavit testimony of Marco Landoni (in addition to his live testimony), Daniel Berens, Fatah Khasse, Martin Chi, Gideon Akosa, Benjamin Ngum, Laura Danielson, Patricia Jorgensen and Elizabeth Vanderbeek. By agreement of the parties, the undersigned received the signed, but unsworn complaint of Guadalupe De La Cruz (attached to Berens' affidavit as Exhibit A) as his testimony. The Director presented the testimony of Delphino Matara by deposition pursuant to the undersigned's pre-trial order. Respondent testified at the hearing. Director's exhibits 1-122 were received into evidence. Respondent offered no exhibits. The parties were directed to submit

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proposed findings of fact, conclusions of law, a recommendation for appropriate discipline and memorandum of law. The parties were directed to submit any reply memorandum no later than April 13, 2012.

In his answer to the petition ("R. Ans."), respondent admitted certain factual allegations, denied others and stated he was "without knowledge to admit or deny" other allegations. The findings and conclusions made below are based upon respondent's admissions, the documentary evidence submitted by the Director, the testimony presented, the demeanor and credibility of respondent and the other witnesses as determined by the undersigned and the reasonable inferences to be drawn from the documents and testimony. If respondent's answer to the petition admits a particular factual finding made below, then even though the Director may have provided additional evidence to establish the finding, no other citation will necessarily be made. For each factual finding made below, the undersigned evaluated the relevant documents and testimony, accepted as credible the testimony consistent with the finding and did not accept the testimony inconsistent with the finding.

Based upon the evidence as outlined above, and upon all of the files, records and proceedings herein, the referee makes the following:

#### **FINDINGS OF FACT**

1. Respondent was admitted to practice law in Minnesota on November 17, 2004 (R. Test.). Respondent graduated from William Mitchell College of Law in 2003 (R. Test.).

#### **Landoni and Morales Matter**

2. Marco Antonio Fernandez Landoni (Landoni) and Brenda Nohemi Morales de Fernandez (Morales) were married Guatemalan immigrants seeking asylum

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in the United States (Landoni Test.).<sup>1</sup> Morales' native language is Spanish and she does not speak or understand English. Landoni is fluent in English. Landoni and Morales collectively had two consecutive immigration attorneys from February 2003 to July 2005. (Landoni Aff., ¶ 2.)

3. In or about August 2005, Landoni and Morales met with respondent and signed a written retainer agreement, which authorized respondent to receive \$2,000 from the balance remaining with their most recent attorney and represent them in immigration removal proceedings. Landoni and Morales advised respondent that a master calendar hearing was scheduled for September 9, 2005. Respondent appeared with Landoni and Morales at the hearing. (R. Ans.; Landoni Aff., ¶ 3.)

4. At the September 9, 2005, hearing, the court issued an order continuing the matter to September 13, 2006. The order required Landoni and Morales to comply with due dates and local operating procedures. Pursuant to the court's order, Landoni and Morales were to be fingerprinted and "idented" 90 days prior to the September 13, 2006, hearing. (R. Ans.; Landoni Aff., ¶ 4.) "Idented" was a process, in effect at the time, by which asylum seekers provided biometric information and photographs for identification purposes (*see* Ex. 119, p. 3). Landoni was required to turn over his original passport, which expired on August 26, 2005, within 60 days of receiving his new passport (R. Ans.; Landoni Aff., ¶ 4).

5. Respondent wrote to Landoni and Morales on September 9, 2005, summarizing the hearing and telling them of the remaining balance of the funds held on their behalf. Respondent outlined what needed to be done in preparation for the September 13, 2006, hearing. (R. Ans.; Ex. 2.) The September 9, 2005, letter was the only correspondence Landoni and Morales received from respondent (Landoni Test.; Landoni Aff., ¶ 5).

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<sup>1</sup> Landoni and Morales were divorced in 2010 (Landoni Test.).

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6. On September 19, 2005, Landoni received his passport. Thereafter, Landoni attempted to contact respondent by telephone on multiple occasions and left multiple messages for respondent. (Landoni Aff., ¶ 6.) Respondent called Landoni during the first week of October and advised him that he was out of the country and instructed him to leave his old passport at respondent's office. Respondent further told Landoni that he would file it with the court upon his return to Minnesota. (R. Ans.; Landoni Aff., ¶ 6.)

7. The next day, pursuant to respondent's instructions, Landoni went to respondent's office and left his old passport and copies of the new passport in an envelope at the front desk (Landoni Aff., ¶ 7). Respondent failed to file the original passport with the immigration court within 60 days of Landoni receiving his new passport, as required pursuant to the court's order. Respondent did not file the passport until September 13, 2006, approximately 11 months after he received it from Landoni and nearly 10 months after it was due. (Ex. 4, pp. 1, 19-22.)

8. After the October 2005 telephone conversation, Landoni and Morales had no communication with respondent until May 2006. During that seven-month period, Landoni left multiple messages for respondent seeking guidance or requesting status updates; however, on some occasions respondent's phones were either out of service or his voicemail was too full to receive messages. In May 2006, Landoni was able to reach respondent and requested a meeting. Landoni and respondent met and discussed, among other things, trial procedures. Landoni also paid respondent \$500. Landoni advised respondent that he had requested a letter from his wife's therapist concerning his wife's psychological evaluation and diagnosis. (Landoni Aff., ¶ 8.)

9. From late May to August 25, 2006, Landoni and Morales had no communication with respondent (Landoni Aff., ¶ 9). Pursuant to local operating procedures, Landoni's and Morales' supporting documents (affidavits, briefs, etc.) were

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to be filed with the immigration court ten days before the September 13, 2006, hearing (Ex. 119, App., p. 2).<sup>2</sup> On August 14, 2006, Landoni received affidavits (written in Spanish) from Guatemalan family members and called respondent to request instructions on whether the court required certified translations of the affidavits. Respondent failed to respond to Landoni's call. Thereafter, Landoni called respondent daily from August 14 through August 17, 2006. Given respondent's lack of response, and that translators were unable to assure timely completion of the translations, Landoni began translating the affidavits into English himself. (Landoni Aff., ¶ 9.)

10. On August 25, 2006, respondent called and met with Landoni to discuss the affidavits. Respondent advised Landoni to complete the translations himself and advised him of the language to include in the affidavits to certify that his translations were accurate and complete. That evening, Landoni provided respondent with three affidavits that he had translated and certified himself. Landoni advised respondent he was waiting for one additional affidavit. Landoni provided respondent with a treatment letter from his wife's therapist indicating she was suffering from post-traumatic stress disorder. Landoni also attempted to give respondent corroborating reports and news articles regarding Landoni and Morales' fear of returning to Guatemala; however, respondent refused to accept those documents, as he believed their case was strong without that information. (Landoni Aff., ¶ 11.)

11. Subsequently, Landoni made multiple telephone calls to respondent regarding the September 13, 2006, hearing. Landoni sought to meet with respondent to

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<sup>2</sup> The petition for disciplinary action contains a typographical error in paragraphs 8 and 12, which indicate that local operating procedures required Landoni's and Morales' documents to be filed 90 days before the hearing. However, local operating procedures required that "[a]ll proposed exhibits and briefs . . . be received in the Immigration Court of Bloomington, Minnesota no later than ten (10) calendar days prior to the scheduled Individual Calendar hearing . . ." (Ex. 119, App., p. 2.) Fingerprinting and indenting needed to be completed 90 days before the hearing based on the court's order (Ex. 4, p. 24).

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prepare for the hearing. Respondent failed to timely respond to Landoni's telephone calls. (Landoni Aff., ¶ 12.)

12. Respondent failed to appear for a previously scheduled September 7, 2006, meeting with Landoni and Morales (Landoni Aff., ¶ 13).

13. On September 9, 2006, respondent met with Landoni and Morales for approximately one hour in preparation for the September 13, 2006, hearing (Landoni Aff., ¶ 14). On September 11, 2006, two days before the hearing, respondent filed with the immigration court a legal memorandum in support of application for asylum, affidavits, treatment summary for Morales, country information and a witness list (Ex. 4, p. 16; *see* Ex. 5, p. 15; Ex. 64, p. 1). As indicated above, Landoni's and Morales' documents were to have been filed with the immigration court ten days before the hearing (Landoni Aff., ¶ 9).

14. Respondent, Landoni and Morales were present at the September 13, 2006, removal hearing (Landoni Aff., ¶ 15). The court excluded the affidavits based on translation issues—the affidavits were translated by Landoni, a party in the proceedings—and timeliness. Morales' treatment summary was also excluded based on timeliness. (Ex. 4, p. 24.) Although Landoni provided respondent with three affidavits and Morales' treatment summary on August 25, 2006, respondent failed to timely submit those documents to the court (Landoni Aff., ¶ 11; Ex. 4, p. 16).

15. The court questioned respondent concerning his failure to follow local operating procedures regarding Landoni's expired passport, which respondent provided to the court the day of the hearing. The court concluded on the record that respondent did not follow local operating procedures as set forth in the court's previous order. (Ex. 4, pp. 21-22.)

16. Landoni unsuccessfully attempted to contact respondent on multiple occasions after the September 13, 2006, hearing to determine if the court had issued an

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order. Respondent failed to respond to Landoni's requests for information. (Landoni Aff., ¶ 15.)

17. On November 1, 2006, the court issued its written decision and order of the immigration judge in the removal proceedings denying Landoni and Morales' application for asylum. The order indicated, in part, that Landoni and Morales failed to provide corroborating documents. Landoni and Morales, in lieu of removal, were to voluntarily depart from the United States on or before January 1, 2007. Additionally, Landoni and Morales were to post a \$1,000 departure bond to the Department of Homeland Security (DHS) within five business days of the court's order and present current valid travel documents within 60 calendar days. Failure to comply with the court's order would result in Landoni and Morales being removed from the United States to Guatemala on the charge contained in their notices to appear; specifically, that after admission as nonimmigrants they remained in the United States for a time longer than permitted. (Ex. 5.)

18. Respondent failed to advise Landoni and Morales of the court's November 1, 2006, decision and order despite Landoni's telephone calls to respondent. On or about November 6, 2006, having not heard from respondent, Landoni contacted the immigration court and learned the order had been issued and sent to respondent. On November 10, 2006, Landoni obtained a copy of the order from the immigration court. When Landoni received the order, the time to post the voluntary departure bond had expired. (Landoni Aff., ¶ 17.)

19. Upon reviewing the court's order, Landoni left respondent a message terminating the representation and requesting their file. Respondent did not return Landoni's call until sometime in January 2007 and did not return their file until the spring of 2007. (Landoni Aff., ¶ 18.)

20. Landoni and Morales retained new counsel to file a motion to reopen the removal proceedings. A final hearing on the matter was heard on September 8, 2010. The court took the matter under advisement. (Landoni Aff., ¶ 19.) The motion to reopen was successful; Landoni is awaiting permanent residency and is now remarried to a United States citizen (Landoni Test.).

De La Cruz Matter

21. In March 2008, Guadalupe De La Cruz (De La Cruz) retained respondent, based upon a referral by an accountant, Hussein Hashi, to represent him regarding an unemployment compensation insurance issue. De La Cruz does not speak English. (Berens Aff., ¶¶ 2-3 & Ex. A.) De La Cruz personally paid respondent \$500 by check no. 1712 dated March 29, 2008. The memo line of check no. 1712 states, “[R]etainer.” (Berens Aff., Exs. A and B; Ex. 6.) De La Cruz’s son, Martin, delivered to respondent another check from De La Cruz in the amount of \$1,500 on or about April 2, 2008. (Exs. 7 and 8.)

22. There was no written retainer agreement (Ex. 69, ¶ 13). Respondent did not deposit De La Cruz’s funds into a trust account; rather, respondent gave the checks to Jennifer Walton (Walton) who cashed or deposited the checks into her own account (Exs. 6 and 7). Walton was respondent’s supervisor at a group home where he worked part-time on the weekends. Walton was in no way affiliated with respondent’s law practice at that time. (Exs. 6, 7 and 73A.) On the back of both checks, above respondent’s signature, is the notation, “Pay to the order of J. Walton.” (Exs. 6 and 7.) There is no credible evidence that Walton was an employee of respondent authorized to receive check proceeds in his practice or that respondent delivered the checks to her in such a capacity. However there is no credible evidence that respondent transmitted confidential information to Walton merely by endorsing and giving possession of the checks to her.

23. De La Cruz also provided respondent with original documents concerning his case (Berens Aff., Ex. A; Ex. 73). At the time respondent met with De La Cruz, respondent was working full-time as a public defender in Rochester, Minnesota, and provided De La Cruz with his business card (Berens Aff., Ex. A; Ex. 69, ¶ 10).

24. Thereafter, respondent failed to take any action regarding De La Cruz's matter (Berens Aff., Ex. A; Ex. 69, ¶ 20; R. Test.).

25. From April to June 2008, De La Cruz and De La Cruz's friend and advisor, Susana Boggs, attempted to contact respondent on five occasions at the public defender's office and on his cell phone leaving messages at both telephone numbers. Respondent failed to return any of the telephone calls. (Berens Aff., Ex. A.)

26. On or about June 25, 2008, attorney Daniel Berens (Berens) contacted William Wright (Wright), respondent's supervisor at the public defender's office, on behalf of De La Cruz and informed him of his intent to file a complaint with the Director's Office on De La Cruz's behalf. Wright indicated he would look into the matter. (Berens Aff., ¶ 5.)

27. On July 2, 2008, Berens submitted a complaint to the Director's Office (Berens Aff., ¶ 3). On July 11, 2008, the Director mailed to respondent a notice of investigation concerning Berens' complaint (Ex. 65).

28. Respondent subsequently contacted Berens and informed him that he had a July 14, 2008, check in the amount of \$2,000 for De La Cruz (Berens Aff., ¶ 6; Ex. 9; Ex. 69, ¶¶ 18-19). A few days later, Berens obtained the check on behalf of De La Cruz. Berens inquired about De La Cruz's documents and was told by respondent that he had given them to a tax attorney. There is no credible evidence that De La Cruz authorized respondent to transfer his documents to a tax attorney. Berens charged De La Cruz \$650 for his time in collecting the \$2,000 and assisting with the return of his documents from respondent. (Berens Aff., ¶¶ 6-7.)

29. It was not until October 29, 2008, that respondent returned De La Cruz's documents (Berens Aff., ¶ 6; Ex. 73).

30. In his answer to the petition, respondent admitted he represented De La Cruz (R. Ans.). In his testimony to the undersigned, respondent denied that he represented De La Cruz (R. Test.). There is clear and convincing evidence respondent represented De La Cruz. Respondent's denial is not credible. It also constitutes a lack of recognition of the wrongful nature of his conduct and a lack of remorse for his misconduct.

#### Khasse Matter

31. On November 3, 2008, United States Citizenship and Immigration Services (USCIS) sent Fatah Khasse (Khasse) notice of intent to terminate asylum status. A termination interview was scheduled for December 4, 2008. (Ex. 10.) Khasse retained respondent to represent him with regard to his immigration matter (R. Ans.).

32. On or about November 14, 2008, respondent completed a notice of entry of appearance as attorney in Khasse's immigration matter (Ex. 11).

33. On or about November 28, 2008, Khasse paid respondent \$700 for the representation (Khasse Aff., ¶ 3; Ex. 12). There was no written retainer agreement and respondent did not deposit the funds into his trust account (Khasse Aff., ¶ 3; Ex. 121, p. 3; R. Test.).

34. On December 2, 2008, respondent requested to meet with Khasse that evening and advised Khasse he was unable to attend the December 4, 2008, interview due to a scheduling conflict. On December 3, 2008, Khasse personally delivered respondent's written request for a continuance and notice of appearance as attorney to USCIS. (Khasse Aff., ¶ 4.)

35. On December 4, 2008, the day of his scheduled interview, Khasse appeared for his interview without respondent or any other legal representation.

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Khasse spoke with an asylum officer who advised him he could appear for the interview without an attorney or call the supervising officer and request a continuance of the interview and wait for a response. USCIS granted Khasse's request for a continuance and indicated that written notification of the new interview date would be mailed. (Khasse Aff., ¶ 5.)

36. On or about March 11, 2009, USCIS notified respondent and Khasse that the termination interview had been scheduled for April 16, 2009 (Ex. 13). On March 16, 2009, Khasse and respondent met to discuss strategy regarding the interview. At that time, respondent repeatedly reassured Khasse his schedule allowed him to appear at the April 16, 2009, interview. With this assurance from respondent, Khasse paid respondent an additional \$300. (Khasse Aff., ¶ 6; Ex. 14.) With this payment, respondent had received \$1,000 from Khasse (Exs. 12 and 14). The remaining balance due to respondent was to be paid upon completion of the interview (Khasse Aff., ¶ 6).

37. In early April, respondent received a notice dated April 3, 2009, from DHS scheduling an April 16, 2009, interview—the date of Khasse's interview—for another client in Arlington, Virginia (Ex. 15).

38. On April 11, 2009, Khasse met with respondent at his office to discuss the April 16, 2009, interview. At that meeting, respondent prepared Khasse's affidavit that was to be presented at the April 16 interview. Khasse provided respondent with notarized affidavits of individuals who supported Khasse's immigration case based on a template affidavit which respondent had previously provided to Khasse in November or December 2008. Khasse completed several affidavits with information he had obtained from the various individuals supporting his case. (Khasse Aff., ¶ 7.)

Respondent claimed that he eventually came to believe that Khasse had lied in his immigration documents regarding substantial core matters about his history.

However respondent of allegedly learning of the lies did not voluntarily withdraw from his representation of Khasse.

39. On April 14, 2009, Khasse emailed respondent attempting to confirm whether they agreed to meet once prior to the April 16 interview and whether they would meet that night or the following night (Khasse Aff., ¶ 8; Ex. 16).

40. On April 15, 2009, respondent and Khasse spoke over the telephone and respondent informed Khasse of his inability to attend Khasse's interview the following day. Subsequently, Khasse called and emailed respondent attempting to retrieve his documents without success. Respondent did not respond to Khasse or return his file. (Khasse Aff., ¶ 8; Ex. 17.)

41. Khasse retained substitute counsel to appear with him at the April 16, 2009, termination interview. Respondent had apparently arranged for another attorney to fill in for him at Khasse's interview; however, respondent did not tell Khasse that he had arranged for another attorney to attend the interview, and that attorney appeared late, disrupted the interview and did not provide Khasse with his file. (Khasse Aff., ¶ 9.)

42. On April 23, 2009, Khasse emailed respondent and again requested his file. Respondent failed to respond to Khasse or return his file. (Khasse Aff., ¶ 10; Ex. 18.)

43. On May 1, 2009, Khasse again emailed respondent and requested his file. Respondent failed to respond to Khasse or return his file. (Khasse Aff., ¶ 10; Ex. 18.)

44. On May 7, 2009, Khasse again emailed respondent and requested his file. Respondent emailed Khasse later that day and stated his office had mailed out Khasse's file. On or about May 12, 2009, Khasse received his file from respondent. (Khasse Aff., ¶ 11; Ex. 18.) Respondent failed to return Khasse's file promptly upon request.

45. Respondent's fee for the representation was not established as being unreasonable. While respondent prepared documents Khasse was unable to submit at his interview because respondent failed to return Khasse's file upon request and failed to attend the interview with him, respondent did prepare the documents and did provide for a substitute attorney to attend the hearing. While respondent's conduct implicated other professional rules, the amount of the fee charged was not clearly unreasonable.

Presbyterian Homes and Services Matter

46. Prior to his November 17, 2004, admission to the practice of law, respondent was employed as the recruitment coordinator for Presbyterian Homes and Services (Presbyterian). In 1999, Presbyterian instituted a religious worker program. As part of that program, religious elders were recruited from Cameroon in three groups in 1999, 2000 and 2002. (R. Ans.)

**Martin Chi**

47. In or about January 2002, respondent recruited religious elder Martin Chi (Chi), among others, from Cameroon under an R-1 temporary nonimmigrant religious worker visa (R. Ans.).

48. Subsequent to his admission to the practice of law, respondent agreed to the mutual representation of Presbyterian and Chi in connection with Chi's immigration-related matters (R. Ans.). The representation was mutual in nature because of an immigration law provision wherein Presbyterian could sponsor religious-affiliated employees such as Chi, and the parties could jointly proceed in certain immigration matters.

49. In approximately January 2006, Chi retained and paid respondent \$1,500 for representation in an asylum matter and to reopen a prior denial of the extension of

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his R-1 visa. As part of the asylum matter, Chi had employment authorization until March 4, 2010. (Chi Aff., ¶ 4.)

50. Chi made a \$4,000 credit card payment to respondent for additional immigration-related representation. Of the \$4,000 fees, \$1,500 was for the filing of a petition for special immigrant religious workers (I-360). (Chi Aff., ¶ 5.) An I-360 petition allows an individual to pursue permanent residency in the United States (*see* Ex. 119). Respondent was to retain the \$2,500 balance until the I-360 petition was approved and then file an application to adjust status (I-485). In the alternative, if the I-360 petition was denied, respondent was to proceed with the asylum application and would receive an additional \$500 fee from Chi. (Chi Aff., ¶ 5.) Respondent never filed an I-485 application for Chi (*see* Chi Aff., ¶¶ 17-18); therefore, respondent's fee was unreasonable.

51. On May 26, 2006, respondent completed a notice of entry of appearance as attorney or representative for Chi with respect to his asylum matter (Ex. 19; R. Ans.).

52. On September 14, 2006, respondent completed a notice of entry of appearance as attorney or representative for Chi with respect to his I-360 petition (Ex. 20; R. Ans.).

53. On or about December 14, 2006, respondent filed Chi's I-360 petition with USCIS. Presbyterian was the petitioner and Chi was the beneficiary. The immigration court received the I-360 petition on January 16, 2007. (Ex. 21; R. Ans.)

54. On September 24, 2007, the immigration court held a continued hearing in Chi's asylum matter. Respondent failed to timely appear for the hearing, which proceeded 30 minutes late without respondent and was reset for a master calendar hearing pending the government's completion of its overseas investigation. Chi unsuccessfully attempted to reach respondent by telephone twice that morning. (Ex. 22, Chi Aff., ¶ 6.) Respondent arrived ten minutes after the hearing had concluded and

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indicated he was delayed in traffic. Respondent did not contact either the court or Chi beforehand to report the reason for his delay. (Chi Aff., ¶ 6; Ex. 22; Ex. 23, p. 7.)

55. On February 7, 2008, the immigration court held a master calendar hearing in Chi's asylum matter. Respondent failed to appear for the hearing, which was scheduled to begin at 9:30 a.m., but did not begin until 10:22 a.m. after the court waited nearly one hour for respondent to appear. Once again, the matter was reset for another master calendar hearing on July 10, 2008. (Chi Aff., ¶ 7; Ex. 23.)

56. On March 26, 2008, USCIS issued a notice of intent to deny Chi's I-360 petition on the grounds that his employment at Presbyterian did not meet the standards for approval. The notice provided Presbyterian until April 25, 2008, to submit additional evidence to rebut the findings and request reversal of the decision. (Ex. 24.)

57. Respondent did not submit a response to the notice of intent to deny Chi's I-360 petition until May 8, 2008 (Ex. 25).

58. On May 16, 2008, USCIS sent to respondent a notice of decision denying Chi's I-360 petition. The decision noted that USCIS had not received a response to the March 26, 2008, notice of intent to deny. Further, the notice of decision provided Presbyterian the opportunity to appeal the denial within 30 days of the decision. (Ex. 26.) Respondent failed to notify Chi of the denial of his I-360 petition (Chi Aff., ¶ 10).

59. Respondent did not provide Chi with any documents received from or submitted to USCIS throughout the representation (Chi Aff., ¶ 11).

60. Presbyterian provided Chi with the May 16, 2008, notice of decision sometime after receiving it and before the appeal period expired. Chi then took the notice to respondent who indicated he would prepare an appeal. Respondent failed to do so, although he led Chi and Presbyterian to believe he had filed the appeal. (Chi Aff., ¶ 12; Danielson Aff., ¶¶ 8, 10; Ex. 37, pp. 3-4, 7-8; Ex. 38, pp. 5, 7.)

61. Chi occasionally would access the USCIS Web site to obtain the status of his I-360 petition. The Web site reflected that Chi's I-360 petition was pending. (Chi Aff., ¶¶ 13, 18.)

62. On July 10, 2008, although respondent was still Chi's counsel of record, he sent substitute counsel, Pryde Ndingwan (Ndingwan), to attend the asylum hearing that was continued from February 7, 2008 (Ex. 27, pp. 2-3). Respondent did not inform Chi that he would not be attending the hearing (Chi Aff., ¶ 14). Ndingwan did not have any information concerning the status of Chi's I-360 petition (Ex. 27, p. 8).

63. The court deconsolidated Chi's matter from that of his ex-wife's and set Chi's case for a final hearing on his application for asylum and for withholding of removal (I-589). The court noted on the record, "Okay. So if [respondent] doesn't show up for that hearing, then he's going to have two failures to appear for hearings, and he's going to be in kind of some problems." (Ex. 27.)

64. On March 9, 2009, respondent and Chi appeared for an individual asylum hearing before the immigration court (Ex. 29). Despite having been served with notice of hearing in removal proceedings on July 10, 2008, respondent appeared late and unprepared and requested a continuance of the hearing (Exs. 28 and 29).

65. At the hearing, respondent advised Chi to irrevocably cancel his right to pursue asylum in exchange for a continuance to allow Chi to marry his fiancée, Taka Bugbami, who would then file an I-130 petition for alien relative once they obtained their marriage license (Exs. 29 and 30; Chi Aff., ¶ 16). Respondent failed to warn Chi the asylum application would remain withdrawn per the terms stated in the written withdrawal of relief (Chi Aff., ¶ 16). Because respondent withdrew Chi's asylum application, Chi's immigration status is in serious jeopardy (Danielson Aff., ¶ 15).

66. The court granted the continuance based on Chi's written agreement to withdraw his asylum application and pursue only the I-360 petition and prospective

I-130 petition. Respondent failed to inform the court of the May 16, 2008, decision denying Chi's I-360 petition. (Exs. 29 and 30.)

67. The transcript from the March 9, 2009, hearing reflects that the court was under the impression that an I-360 petition was pending. The court stated, "[T]his agreement does not withdraw the I-360 petition or relief [Chi] may be entitled to through the religious worker petition." Respondent replied, "Right." There was no discussion regarding a motion to reopen Chi's I-360 petition. (Ex. 29.)

68. The court set a deadline of November 12, 2009, by which Chi needed to be married and have his I-130 petition filed. A master calendar hearing for a status check on Chi's I-360 petition and I-130 petition was set for 9:00 a.m. on November 12, 2009. (Ex. 29.)

69. Chi's written withdrawal of relief stated, "This written withdrawal of relief does not withdraw any relief I may be entitled to based on my pending special immigrant petition as a religious worker (Form I-360)." (Ex. 30.) As stated above, however, Chi's I-360 petition was denied, was not appealed, and was, therefore, no longer pending and was not an option available to Chi. Consequently, respondent's representations to the court were knowingly false and misleading. (Chi Aff., ¶ 12; Danielson Aff., ¶¶ 8, 10; Ex. 37, pp. 3-4, 7-8; Ex. 38, pp. 5, 7.)

70. On June 25, 2009, following issuance of the district court's order in *Ruiz-Diaz v. United States*, No. C07-1881RSL (W.D. Wash. June 11, 2009), USCIS circulated an internal memorandum which stated that individuals with I-360 petitions pending since January 2007 were eligible to immediately file an I-485 application by September 9, 2009. If the I-485 application was accepted, it provided Chi protection from the accrual of unlawful presence and unauthorized work until September 9, 2009. (Ex. 31; Danielson Aff., ¶ 18.) Chi, based upon respondent's representations that he had appealed the denial of Chi's I-360 petition, requested that respondent file an I-485

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application on his behalf. Respondent did not respond to Chi in this regard, despite Chi's multiple attempts to reach him. (Chi Aff., ¶ 17.)

71. Chi requested his file from respondent so that he could file the I-485 application himself. Respondent failed to provide Chi with his file. Chi belatedly filed the application himself, without the benefit of having his file, as respondent had failed to take any action on Chi's behalf. Prior to filing the I-485 application, Chi checked the status of his I-360 petition online. The USCIS Web site erroneously reflected that his I-360 petition was pending. Even as late as November 12, 2009, the Web site showed Chi's I-360 petition was pending. USCIS's California Service Center (CSC), however, informed respondent's successor counsel's firm that that was an error. (Chi Aff., ¶ 18; Ex. 38, p. 7.)

72. On or about August 5, 2009, Chi obtained a marriage certificate (Ex. 38, p. 10).

73. On September 8, 2009, Chi retained attorney Laura Danielson (Danielson) (Ex. 32). On September 9, 2009, Danielson, after repeated unsuccessful attempts to contact respondent, requested in writing that respondent provide her with Chi's complete file. Danielson enclosed with the letter a copy of notice of entry of appearance as attorney or representative signed by Chi. (Ex. 33; Danielson Aff., ¶ 17.) Respondent failed to provide Chi's file to Danielson (Danielson Aff., ¶ 17).

74. On September 16, 2009, USCIS returned Chi's I-485 application and paperwork. Chi was never eligible to apply for the protections provided by the I-485 application because his I-360 petition had been denied and respondent failed to file the appeal. (Ex. 34; Danielson Aff., ¶ 19.)

75. On September 22, 2009, a member of Danielson's firm spoke with respondent who promised to deliver Chi's file within one week. Respondent failed to do so. (Danielson Aff., ¶ 20.)

76. On September 30, 2009, a member of Danielson's firm spoke with respondent and requested a copy of Chi's file. Respondent assured her that he would send a copy of Chi's file. Respondent failed to do so. (Danielson Aff., ¶ 21; Ex. 35.)

77. On October 7, 2009, a member of Danielson's firm sent respondent another written request for a copy of Chi's file (Ex. 35; Danielson Aff., ¶ 22). Respondent failed to provide Danielson with a copy of Chi's file (Danielson Aff., ¶ 22).

78. On October 30, 2009, a member of Danielson's firm faxed respondent another written request for a copy of Chi's file in the form of a written letter from Chi (Ex. 36; Danielson Aff., ¶ 23).

79. On or about October 30, 2009, Danielson's firm filed a motion for substitution of counsel with the immigration court (Ex. 37; Danielson Aff., ¶ 24).

80. On November 6, 2009, respondent told a member of Danielson's firm that Chi's I-360 petition was denied. Respondent falsely stated that he had filed an appeal of Chi's I-360 petition and that the appeal was pending. A review of the court's file and the files respondent provided to Danielson indicates that an appeal had never been filed. Respondent could not provide Danielson or her firm with evidence or a receipt of a pending I-360 appeal. Danielson's office contacted the Administrative Appeals Office (AAO) and CSC, which are responsible for adjudicating appeals of this nature, and both offices confirmed that they have no record of an appeal being filed. (Danielson Aff., ¶ 25; Exs. 37 and 38.)

81. On or about November 7, 2009, respondent delivered Chi's file to a member of Danielson's firm; nearly three months after Danielson first began requesting the file (Danielson Aff., ¶ 26; Ex. 37).

82. Respondent's failure to promptly upon request provide Danielson with Chi's file prevented the filing of his I-130 petition prior to the court's November 12, 2009, deadline (Danielson Aff., ¶ 27).

83. On November 12, 2009, the immigration court held Chi's continued hearing (Ex. 38, p. 1). The court permitted respondent to withdraw from the representation and granted the motion to substitute Danielson's firm as Chi's counsel. The court further granted Danielson's firm's motion for a continuance, but declined to rule on Chi's request to reopen his asylum matter. (Ex. 38, p. 12.) The court set the matter for another master calendar hearing on March 2, 2010, at 1:00 p.m. (Ex. 38, p. 13).

84. At the November 12, 2009, hearing, respondent admitted on the record that "when the asylum application was withdrawn, I was the one who insisted that there was an I-160 [sic]. My understanding of the I-3 -- sorry -- the I-360 issue was that this was filed, I represented." Respondent further stated, "In fact, for Mr. [Chi]'s, it's a motion to reopen the I-360, and I represented that to this court. The minutes would reflect that." (Ex. 38, pp. 5-6.) Respondent's statement was false, as he never informed the court at the March 9, 2009, hearing that he was bringing, or had already brought, a motion to reopen Chi's I-360 petition nor had he ever filed a motion to reopen Chi's I-360 petition (Ex. 29).

85. Chi's employment with Presbyterian ended on March 2, 2010. Chi is currently attempting to reopen his asylum matter (Chi Aff., ¶ 19).

86. At the March 8, 2012, disciplinary hearing, respondent testified that Chi had allegedly married his own sister to bring her to the United States and that to prevent a further fraud being committed upon the immigration court and system, respondent advised Chi to withdraw the asylum application so that he would not face a permanent ban from returning to the United States if the fraud was discovered. Respondent testified on direct examination that Chi told respondent of the allegedly fraudulent marriage at the time Chi asked respondent to represent him in the asylum matter and that respondent withdrew the asylum application when he learned of the fraudulent marriage. On cross-examination, however, respondent admitted that he

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knew of the allegedly fraudulent marriage in May 2006, the time of retention in the asylum matter (Ex. 19), and that he did not advise Chi to withdraw his asylum application until March 2009, nearly three years later (Ex. 30). Despite knowing of what respondent characterized as a "sham marriage," he undertook representation of Chi in the asylum matter in May 2006 and continued to represent him until the application was withdrawn in March 2009. Respondent's conduct and testimony in this regard is not credible, and demonstrates a lack of recognition of the wrongful nature of his conduct and lack of remorse for his misconduct.

### **Gideon Akosa**

87. In November 1999, respondent recruited religious elder Gideon Akosa (Akosa), among others, from Cameroon under an R-1 visa (R. Ans.).

88. Presbyterian's former counsel had filed two separate I-360 petitions with USCIS on Akosa's behalf (Exs. 39 and 40). USCIS denied both petitions on December 16, 2003, and February 25, 2005, respectively (Exs. 42 and 43). On March 22, 2005, that counsel filed a motion to reconsider the denial of Akosa's second I-360 petition (Ex. 44). On July 22, 2005, USCIS denied Akosa's motion to reconsider (Ex. 45).

89. In November 2004, Akosa's R-1 visa expired. With the expiration of his R-1 visa, Akosa had no authorization to work in the United States. The expiration of Akosa's R-1 visa was not discovered until a July 2009 employment verification audit, as more fully set forth below. (Akosa Aff., ¶ 4.)

90. Subsequent to his admission to the practice of law, respondent agreed to the mutual representation of Presbyterian and Akosa in connection with Akosa's immigration-related matter. Respondent requested that Akosa pay part of a group retainer fee. Respondent did not enter into a written retainer agreement with, or communicate the basis or rate of his fee to, Akosa. Akosa paid respondent a total of

\$650 for respondent's representation. Akosa paid respondent \$500 at the time of retention in 2005. (Akosa Aff., ¶ 5.)

91. On or about November 15, 2005, respondent told Akosa he had filed a motion to reconsider the I-360 denials for a group of Presbyterian employees, including Akosa (Akosa Aff., ¶ 6; Ex. 46). On November 22, 2005, USCIS issued a receipt notice confirming receipt and processing of the motion only on behalf of Edward A. Nde (Nde) (Ex. 47). Respondent never provided Akosa with a receipt notice that listed him as the beneficiary of the motion. When Akosa subsequently requested a status update from respondent, respondent provided him with Nde's receipt notice and told him this evidenced that Akosa's own motion to reconsider the denial of his I-360 petition was pending. (Akosa Aff., ¶ 6.)

92. Respondent's assertion in this regard was contrary to the basic tenets of the immigration system and process, which provide that each beneficiary of a filing receive his own receipt number and notice (Danielson Aff., ¶ 30).

93. Other than Nde's receipt notice, respondent did not provide Akosa with any documents related to the representation (Akosa Aff., ¶ 7).

94. On November 30, 2005, respondent sent Nde's receipt notice to Presbyterian's human resources director along with a memorandum in which respondent again implied that Nde's receipt notice evidenced that Akosa's motion was pending before USCIS (Ex. 48). As stated above, respondent's statements contradicted immigration practice, which requires that each beneficiary of a filing receive his own receipt number and notice (Danielson Aff., ¶ 30).

95. From November 2005 to mid-2009, Akosa periodically requested respondent to provide him with the status of the motion to reconsider the I-360 petition he believed was pending with USCIS. Respondent repeatedly advised Akosa that he should not concern himself with the matter as he was legally employed. Further,

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respondent advised Akosa that he was in communication with Presbyterian about his immigration matter. In mid-2009, hoping to urge respondent to act and believing that he owed respondent additional funds, Akosa gave respondent \$150. (Akosa Aff., ¶ 8.)

96. In July 2009, Presbyterian conducted an employment verification audit in compliance with federal regulations. The audit raised questions regarding the status and legality of Akosa's employment authorization; therefore, Presbyterian requested from Akosa verification of his authorization to work. (Akosa Aff., ¶ 9; Danielson Aff., ¶ 31.)

97. Thereafter, Akosa made immediate and multiple requests to respondent to provide Presbyterian with verification of his work authorization. Respondent failed to promptly return Akosa's telephone calls, but did meet with him. (Akosa Aff., ¶ 10.) On August 3, 2009, respondent sent a letter to Presbyterian's human resources manager and incorrectly advised her that "**Mr. Akosa is legally permitted to continue working for [Presbyterian] until the final adjudication of his I-360 Petition.**" (Ex. 49.) This statement was in error. The filing of an I-360 petition does not confer upon a beneficiary work authorization or lawful status. Once an I-360 petition is approved, the applicant may file an I-485 application and an application for employment authorization (Form I-765). (Danielson Aff., ¶ 32; *see also* Ex. 119.)

98. Upon receipt of respondent's August 3, 2009, letter, Presbyterian requested Akosa to provide verification from USCIS of his authorization to work. Akosa spoke with respondent on the telephone and requested documentation of his work authorization to provide to Presbyterian. Respondent failed to provide Akosa or Presbyterian with such documentation. Because respondent failed to file a motion to reconsider for Akosa individually, his I-360 petition was not pending and had been denied on July 25, 2005. Furthermore, because Akosa's R-1 visa had expired in

November 2004, he had no authorization to work in the United States. (Akosa Aff., ¶ 12; Danielson Aff., ¶ 33; Ex. 119.)

99. Respondent's failure to competently represent Akosa resulted in him being employed without authorization for several years and resulted in his inability to adjust to permanent status. Presbyterian terminated Akosa's employment from August 3, 2009, to September 23, 2009. *See* ¶ 106, below. (Akosa Aff., ¶ 13; Danielson Aff., ¶ 34.)

100. Sometime after August 3, 2009, Presbyterian contacted Danielson and requested that she review Akosa's file (Danielson Aff., ¶ 35).

101. On August 17, 2009, Danielson contacted respondent via telephone and advised him that he was incorrect in his assurance to Akosa and Presbyterian that Akosa was lawfully employed based upon his I-360 petition. Danielson requested a copy of Akosa's file. Respondent advised Danielson he would review the matter and contact her. Respondent failed to provide the file to, or to contact, Danielson. (Danielson Aff., ¶ 36.)

102. On or about August 24, 2009, Danielson again advised respondent of the need for Akosa's file. Respondent promised to take care of it right away, but failed to do so. (Danielson Aff., ¶ 37.)

103. On August 26, 2009, Akosa and Danielson signed a notice of entry of appearance as attorney giving Danielson's firm authority to represent him before DHS (Ex. 50; Danielson Aff., ¶ 38).

104. On September 9, 2009, Danielson wrote to respondent and indicated she was unsuccessful in contacting him, again requested Akosa's file and advised him she had been retained to pursue Akosa's immigration matter. Respondent failed to respond to Danielson and failed to provide her with Akosa's file. (Danielson Aff., ¶ 39; Exs. 33 and 36.)

105. On September 22, 2009, a member of Danielson's firm spoke with respondent who promised to deliver Akosa's file within one week. Respondent failed to do so. (Danielson Aff., ¶ 40.)

106. On September 24, 2009, Akosa returned to work for Presbyterian based on an employment authorization in connection with a separate asylum application filed by his spouse (Akosa Aff., ¶ 15).

107. On September 30, 2009, a member of Danielson's firm spoke with respondent and again requested a copy of Akosa's file. Respondent assured her that he would send a copy of Akosa's file. Respondent failed to do so. (Danielson Aff., ¶ 42; Ex. 35.)

108. On October 7, 2009, a member of Danielson's firm wrote to respondent and again requested a copy of Akosa's file. Respondent failed to do so. (Ex. 35; Danielson Aff., ¶ 43.)

109. On or about November 7, 2009, respondent delivered Akosa's file to a member of Danielson's firm, nearly three months after Danielson first began requesting the file (Danielson Aff., ¶ 44; Ex. 51).

110. In a November 7, 2009, letter to a member of Danielson's firm, respondent stated, "In effect, Mr. Akosa has a pending motion to reopen and reconsider with the USCIS." Respondent further stated that the receipt notice was in Nde's name "simply because my motion dated November 15, 2005, had Mr. Nde's name as the first on the group motion." (Ex. 51.) As stated above, however, Akosa should have received his own receipt number and notice if respondent had properly filed the motion on his behalf (Danielson Aff., ¶ 45).

111. Upon review of Akosa's file, Danielson discovered respondent had not correctly filed a motion to reconsider the denial of Akosa's I-360 petition as he had represented to Akosa and Presbyterian (Danielson Aff., ¶ 46).

112. Akosa's spouse's pending asylum matter was expected to be heard in early 2011 (Akosa Aff., ¶ 15; Danielson Aff., ¶ 47).

**Benjamin Ngum**

113. In or about January 2002, respondent recruited religious elder Benjamin Ngum (Ngum) from Cameroon under an R-1 visa. Ngum's R-1 visa expired automatically on January 17, 2005. (R. Ans.)

114. Subsequent to his admission to the practice of law, respondent agreed to the mutual representation of Presbyterian and Ngum in connection with Ngum's immigration-related matter. Ngum paid respondent's fees associated with the representation. (R. Ans.)

115. In late 2004, Ngum requested respondent to file for an extension of his R-1 visa and file an I-360 petition (Ngum Aff., ¶ 6; Danielson Aff., ¶ 50).

116. In or about January 2005, Ngum's R-1 visa was extended for two years (Ngum Aff., ¶ 6; Danielson Aff., ¶ 51).

117. On November 2, 2006, respondent filed an I-360 petition on Ngum's behalf. Presbyterian was the petitioner and Ngum was the beneficiary in that matter. (R. Ans.)

118. In January 2007, Ngum's R-1 visa expired. Without a valid R-1 visa, Ngum had no authorization to work in the United States as of January 2007. (Ngum Aff., ¶ 6; Danielson Aff., ¶ 53.)

119. Respondent failed to advise Ngum that his R-1 visa had expired (Ngum Aff., ¶ 6; Danielson Aff., ¶ 54; Jorgensen Aff., ¶ 11). The expiration of Ngum's R-1 visa was not discovered until Presbyterian conducted an employment verification audit in July 2009, as more fully set forth below (Ngum Aff., ¶ 6; Danielson Aff., ¶ 54).

120. On March 26, 2008, USCIS issued a notice of intent to deny Ngum's I-360 petition on the grounds that his employment at Presbyterian did not meet the standards

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for approval. The notice provided Presbyterian until April 25, 2008, to submit additional information, evidence or arguments to support the petition. (Ex. 53.)

121. Respondent did not submit a response to the notice of intent to deny Ngum's I-360 petition until May 8, 2008 (Ex. 54).

122. On July 24, 2008, USCIS denied Ngum's I-360 petition. The notice of decision, sent to Presbyterian and copied to respondent, provided Presbyterian the opportunity to appeal the denial of Ngum's I-360 petition within 30 days. (Ex. 54.) Sometime after receiving the decision, a representative of Presbyterian notified Ngum that his I-360 petition had been denied. Shortly thereafter, Ngum requested that respondent complete and file an appeal. (Ngum Aff., ¶ 7; Danielson Aff., ¶ 57.) Ngum paid respondent \$1,580 for the appeal (*see* Ngum Aff., ¶ 7; Jorgensen Aff., ¶ 11).

123. Although respondent advised Ngum and Presbyterian that he filed the appeal, no such appeal was filed (Ngum Aff., ¶ 7; Danielson Aff., ¶ 58). Respondent's statements to Presbyterian and Ngum that he had filed an appeal when he had not done so were false.

124. In July 2009, Presbyterian conducted an employment verification audit in compliance with federal regulations. The audit raised questions regarding the status and legality of Ngum's work authorization; therefore, Presbyterian requested from Ngum verification of his authorization to work. (Ngum Aff., ¶ 6; Danielson Aff., ¶ 59.)

125. Ngum requested respondent to provide Presbyterian with such verification. On or about August 9, 2009, respondent incorrectly advised Ngum that he was eligible to work pursuant to the pending appeal of the USCIS decision to deny his I-360 petition. (Ngum Aff., ¶ 6; Danielson Aff., ¶ 60.) Respondent had not, however, filed an appeal on behalf of Ngum. Respondent's statements to the contrary were false. (Ngum Aff., ¶ 7; Danielson Aff., ¶¶ 58, 60.) Further, as stated above, the filing of an I-360 petition does not confer upon a beneficiary work authorization or lawful status.

Once an I-360 petition is approved, the applicant may then file an I-485 application and a Form I-765. (Danielson Aff., ¶ 60; Ex. 119.)

126. Respondent advised Ngum he would write a letter to Presbyterian stating Ngum was still eligible to work. Respondent did not write the letter to Presbyterian. (Ngum Aff., ¶ 5.)

127. Presbyterian subsequently contacted respondent to determine whether he was aware of Ngum's lack of employment verification and what course of action he recommended. Respondent incorrectly advised Presbyterian's executive director that Ngum's appeal was the basis for his employment eligibility. Ngum's I-360 petition was not pending, as it had been denied on July 24, 2008, and respondent failed to file an appeal of the denial. (Danielson Aff., ¶ 61.) Respondent's statement that an appeal was pending was false.

128. As a result of respondent's neglect and misrepresentations, Ngum was out of work status and ineligible to apply for adjustment of status to permanent residency (Ex. 55; Ngum Aff., ¶¶ 4, 6; Danielson Aff., ¶ 62). Moreover, Ngum was barred from reentering the United States for a period of 10 years for overstaying his R-1 visa. On August 17, 2009, Presbyterian terminated Ngum's employment. Further, respondent's conduct subjected Ngum to serious immigration ramifications due to his illegal employment with Presbyterian from 2007 to 2009. (Ngum Aff., ¶¶ 4, 6; Danielson Aff., ¶ 62.)

129. Sometime after August 3, 2009, Presbyterian contacted Danielson and requested that she review Ngum's file (Danielson Aff., ¶ 63).

130. On August 17, 2009, Danielson contacted respondent via telephone and advised him that he was incorrect in his assurance to Ngum and Presbyterian that Ngum was lawfully employed based upon his I-360 petition. Danielson requested a copy of Ngum's file. Respondent advised Danielson he would review the matter and

contact her. Respondent failed to provide the file to, and failed to contact, Danielson. (Danielson Aff., ¶ 64.)

131. On August 21, 2009, Ngum, based upon respondent's false assurance that an appeal of the denial of his I-360 petition had been filed, completed and filed an I-485 application himself (Ex. 55; Ngum Aff., ¶ 7; Danielson Aff., ¶ 65).

132. On or about August 24, 2009, Danielson again advised respondent of the need for Ngum's file. Respondent promised to take care of it right away, but failed to do so. (Danielson Aff., ¶ 66.)

133. On August 26, 2009, USCIS returned Ngum's I-485 application and paperwork. The stated reason for returning Ngum's application and paperwork was that "I-485 applications may be filed based upon a pending or approved I-360. USCIS records indicate that your I-360 has been denied. You are therefore not eligible to file an I-485 application." (Ex. 55.)

134. On August 26, 2009, Ngum and Danielson signed a notice of entry of appearance as attorney giving Danielson's firm authority to represent him before DHS (Ex. 56).

135. On September 9, 2009, Danielson wrote to respondent and indicated she was unsuccessful in contacting him, again requested Ngum's file and advised him she had been retained to pursue Ngum's immigration matter. Respondent failed to respond to Danielson and failed to provide her with Ngum's file. (Danielson Aff., ¶ 69; Exs. 33 and 35.)

136. On September 22, 2009, a member of Danielson's firm spoke with respondent who promised to deliver Ngum's file within one week. Respondent failed to provide Danielson with a copy of Ngum's file as promised. (Danielson Aff., ¶ 70.)

137. On September 30, 2009, a member of Danielson's firm spoke with respondent and again requested a copy of Ngum's file. Respondent assured her that he

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would send a copy of Ngum's file. Respondent failed to do so. (Danielson Aff., ¶ 71; Ex. 35.)

138. On October 7, 2009, a member of Danielson's firm wrote to respondent and again requested a copy of Ngum's file. Respondent failed to provide Danielson with a copy of Ngum's file. (Danielson Aff., ¶ 72; Ex. 35.)

139. In the latter part of October 2009, Ngum, by chance, came across respondent at a Kinko's copy center. Ngum reminded respondent that Danielson's office was handling all his legal matters and that his file should be sent directly to his new counsel. (*See generally* Ngum Aff.; Jorgensen Aff., ¶ 11.)

140. On or about November 7, 2009, respondent delivered Ngum's file to a member of Danielson's firm, nearly three months after Danielson first began requesting the file (Danielson Aff., ¶ 73). Upon review of Ngum's file, Danielson was unable to locate any documentation confirming that respondent had ever filed an appeal on Ngum's behalf. Additionally, Danielson's firm contacted AAO and CSC and both offices confirmed that no appeal was ever received. (Danielson Aff., ¶ 74.)

141. Ngum had been unemployed since the August 2009 discovery that he was ineligible to work. Ngum, after a difficult period of being homeless, met and married a United States citizen, who successfully petitioned for him to remain in the United States as a lawful permanent resident. As of the date of the petition for disciplinary action, Ngum was working at Presbyterian again. (Danielson Aff., ¶ 75.)

#### Matara Matter

142. On or about December 1, 2009, Delphino Matara retained respondent to appeal the Board of Immigration Appeals' (BIA) denial of his application for political asylum. Matara lives in Davenport, Florida. (R. Ans.)

143. Respondent's retainer agreement: (1) called for a flat nonrefundable fee of \$5,000; (2) was signed by both Matara and respondent and dated January 27, 2010; and

(3) stated the funds would "be deposited in the Firm's business account and will be considered earned as [sic] attorney upon deposit." (Ex. 97.)

144. On December 11, 2009, Matara paid respondent \$3,000 towards fees and \$110 in filing fees (Exs. 98 and 99). Respondent filed the notice of appeal on December 10, 2009 (Matara Dep., p. 13). The \$3,000 for fees was received before January 27, 2010, the date the retainer agreement was signed, and before respondent had performed any work on Matara's appeal other than filing the notice of appeal. Therefore, these funds should have been properly deposited into a trust account. (Exs. 98 and 99.) Respondent failed to do so (Exs. 97 and 121). On February 1, 2010, and March 1, 2010, Matara paid respondent the remaining balance of \$2,000 (Ex. 99).

145. Respondent timely filed Matara's appeal; however, on October 14, 2010, BIA dismissed Matara's appeal and affirmed the immigration judge's November 30, 2009, decision denying Matara's asylum application (Ex. 100). On October 18, 2010, Matara received a courtesy copy of the decision from BIA and called respondent. Respondent advised Matara to retain him to appeal to the Eleventh Circuit Court of Appeals. Approximately two days later, Matara notified respondent that he was ready to take the case further. Respondent did not prepare a new retainer agreement but agreed to represent Matara before the Eleventh Circuit. Respondent told Matara his fees would be \$7,000 plus \$1,000 for filing fees. (Matara Dep., pp. 18-19.)

146. On November 4, 2010, Matara paid respondent \$5,000. Matara's check cleared his bank on November 8, 2010 (Ex. 101). On November 10, 2010, Matara emailed respondent to remind him that the appeal was due to the Eleventh Circuit on November 14, 2010, asked him whether the appeal needed to arrive to the court on November 12, given that November 14 was a Sunday, and requested respondent to inform him of the progress on the matter (Ex. 102). Respondent failed to respond to Matara (Matara Dep., p. 23).

147. In late November 2010, Matara requested and received from respondent a copy of the petition for review respondent filed with the Eleventh Circuit (*see* Matara Dep., pp. 24, 26). Respondent's November 12, 2010, cover letter to the clerk stated, "Please find enclosed a petition for review for the above referenced petitioner along with a filing fee of \$450." The filing fee respondent paid was \$450, not \$1,000 as respondent indicated to and charged Matara. (Ex. 103; Matara Dep., pp. 19, 26-27.) Respondent has not provided Matara with an accounting of the remaining \$550 collected for filing fees (Matara Dep., p. 27).

148. The appeal respondent submitted to the Eleventh Circuit was dated November 12, 2010; however, it was not received by the court until November 17, 2010. Respondent's late filing resulted in dismissal of Matara's appeal on January 14, 2011. (Exs. 103 and 104.) The court filing deadline was November 15, 2010.

149. Respondent did not inform Matara of the dismissal. Instead, respondent called Matara on January 14, 2011, to request the remaining balance of \$3,000. (Matara Dep., pp. 30-31.) Not knowing the true status of the matter, Matara promptly paid respondent \$2,000 on January 14, 2011, and \$1,000 on January 28, 2011 (Ex. 105; Matara Dep., p. 32).

150. On two occasions Matara requested respondent to provide a copy of the brief respondent filed with the Eleventh Circuit. Respondent failed to do so. As of February 23, 2012, respondent had not provided Matara with a copy of the brief. (Matara Dep., pp. 33-34.)

151. Without Matara's knowledge or consent, respondent petitioned for reconsideration of the Eleventh Circuit's January 14, 2011, dismissal of Matara's appeal (Matara Dep., p. 35). The petition for reconsideration respondent filed on Matara's behalf was denied on March 17, 2011 (Ex. 107).

152. On or about April 12, 2011, Matara, in a text message, requested that respondent provide him with the status of his case (*see generally* Matara Dep.). Respondent called Matara the following day and left a voicemail message at 5:09 a.m. in which he informed Matara of the January 14, 2011, dismissal. This was approximately three months after the court issued its decision (*see* Matara Dep., pp. 28-29). Matara called respondent back. Respondent indicated he needed to see Matara to discuss his “options,” which respondent said he could not discuss over the phone. Respondent did not inform Matara of the reason for the dismissal—respondent’s failure to timely file the appeal. (Matara Dep., pp. 34-35.)

153. Later that day, Matara called respondent’s office and requested a copy of the dismissal. Respondent’s assistant emailed Matara the January 14, 2011, dismissal as well as the March 17, 2011, denial of the petition for reconsideration. This was the first time Matara learned that respondent had filed a petition for reconsideration and that it had been denied. Matara learned of the March 17, 2011, decision approximately 28 days after it was issued. (Matara Dep., p. 36.)

154. On April 15, 2011, at respondent’s insistence, Matara purchased respondent a plane ticket for \$479.40 from Minneapolis to Orlando to meet to discuss the appeal in-person. Respondent missed the flight and requested Matara cover the expenses associated with getting on the next flight as well as an additional \$500 allowance. Matara declined to cover these additional expenses. (Matara Dep., pp. 36-40.)

155. Respondent eventually arrived in Orlando and met with Matara on April 16, 2011. One of the “options” respondent presented to Matara (as detailed in an April 17, 2011, email from respondent to Matara) involved respondent traveling to Zimbabwe, Matara’s native country, to collect information and return to the United States and file a motion to reopen. Respondent’s fee for doing so would be \$20,000 or

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\$25,000 depending on whether respondent would be responsible for his own transportation and accommodations. (Matara Dep., pp. 40-44; Ex. 108.)

156. On April 21, 2011, Matara's wife, Christina, requested that respondent reconsider his fee (Ex. 108).

157. The Mataras have not had any further contact with respondent since April 24, 2011, when respondent sent Matara a text message asking, "Any update?" (Matara Dep., p. 45-46.)

158. Matara has since retained new counsel and terminated respondent's representation (Matara Dep., p. 46).

159. Respondent has not refunded any of the unearned fees or expenses Matara paid (Matara Dep., p. 46).

160. A motion to reopen was filed with BIA on Matara's behalf on or about July 14, 2011 (*see generally* Matara Dep., p. 46).

#### Non-Cooperation

161. On July 3, 2008, the Director sent respondent notice of investigation of Landoni and Morales' complaint. The Director sent the notice to the address maintained for respondent in the lawyer registration records. Respondent was asked to provide the district ethics committee (DEC) investigator with a complete written response to the complaint within 14 days. (Ex. 57.) Respondent failed to respond (Ex. 57A).

162. On August 19, 2008, the DEC investigator wrote to respondent informing him of the complaint and his overdue response (Ex. 57A). On August 21, 2008, the DEC investigator spoke with respondent by telephone and subsequently emailed the complaint to him. The DEC investigator requested respondent to confirm receipt of the email and complaint and provided a two-week extension (until September 4, 2008) for respondent to provide his written response to the complaint. (Ex. 58.) Respondent

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failed to confirm receipt of the DEC investigator's email or the attached complaint until August 27, 2008 (Ex. 60).

163. On August 27, 2008, the DEC investigator emailed respondent requesting confirmation that he received the documents emailed to him on August 21. Shortly after the DEC investigator sent the email, respondent confirmed receipt of the documents. (Ex. 60.) Respondent failed to respond to Landoni and Morales' complaint by September 4, 2008 (Ex. 61).

164. On September 12, 2008, the DEC investigator emailed respondent again and informed him the investigation would begin without his response and he should provide anything he wanted the investigator to consider as soon as possible (Ex. 61).

165. On September 15, 2008, the DEC investigator received an email from respondent indicating he would provide a response; however, respondent failed to do so (Exs. 61 and 62).

166. On September 23, 2008, the DEC made its report and recommendation to the Director without respondent's response to Landoni and Morales' complaint (Ex. 59).

167. On September 29, 2008, the Director wrote to respondent and requested his response to Landoni and Morales' complaint within two weeks. The Director informed respondent that he was required to cooperate with the disciplinary process. (Ex. 62.) Respondent failed to respond (Ex. 63).

168. By letter dated October 23, 2008, the Director advised respondent that the Director had not received his response to the Director's September 29 letter and requested respondent to provide a response to Landoni and Morales' complaint within one week (Ex. 63).

169. On October 30, 2008, nearly four months after the notice of investigation was issued, the Director received respondent's response to Landoni and Morales' complaint (Ex. 64).

170. On July 11, 2008, the Director sent respondent notice of investigation of De La Cruz's complaint. The Director sent the notice to the address maintained for respondent in the lawyer registration records. Respondent was asked to provide the DEC investigator with a complete written response to the complaint within 14 days. (Ex. 65.) Respondent failed to respond (Ex. 66).

171. By letter dated August 4, 2008, the DEC investigator informed respondent that she had not received his response to the complaint and requested his response immediately. The letter further informed respondent that "[s]hould [he] fail to respond by August 15, 2008 as requested, I will complete the investigation with only the submitted information." (Ex. 66.) Respondent failed to respond (Ex. 67).

172. On September 4, 2008, the DEC investigator spoke with respondent and subsequently informed him via email that she had not received his response to De La Cruz's complaint and attached the same. The DEC investigator requested that respondent confirm receipt of her September 4, 2008, email. (Ex. 67.) Respondent confirmed receipt of the email on September 8, 2008, the date the DEC investigator expected to receive respondent's response based on respondent's prior indication to her (Ex. 68).

173. In his September 8, 2008, email to the DEC investigator, respondent requested an additional extension "up to the weekend" to provide his response to De La Cruz's complaint. The DEC investigator asked respondent to submit his response no later than 8:00 a.m. on September 15, 2008. (Ex. 68.) Respondent failed to respond to the complaint until September 22, 2008 (Ex. 69).

174. On October 13, 2008, the DEC investigator requested that respondent email her copies of his bank statement(s) reflecting the deposit of De La Cruz's checks. On October 16, 2008, respondent replied to the DEC investigator indicating his work schedule made it difficult for him to obtain the bank statements. Respondent stated he

would try to obtain them on Saturday. Respondent failed to inform the DEC investigator that he did not deposit the retainer fees into his bank account and, therefore, the bank statements were not needed. (Exs. 6, 7 and 70.)

175. On October 20, 2008, the DEC investigator, for a second time, requested copies of respondent's bank statements reflecting the deposit of De La Cruz's checks (Ex. 71).

176. On October 23, 2008, respondent mistakenly faxed his current bank statement to the Director's Office, but informed the DEC investigator in an October 23, 2008, email that he had faxed the statements to her (Exs. 72 and 73).

177. On October 23, 2008, the DEC investigator informed respondent that she had not received a fax and reiterated the request for copies of the bank statement(s) reflecting the deposit of De La Cruz's checks. Respondent failed to provide the DEC investigator with the requested bank statements. (Ex. 73.)

178. On April 3, 2009, the Director requested additional information from respondent concerning De La Cruz's complaint. Respondent was asked to respond within two weeks. (Ex. 74.) Respondent failed to respond (Ex. 75).

179. On April 27, 2009, the Director sent respondent a second letter requesting a response to the Director's April 3, 2009, letter within one week. The Director also informed respondent that on or about April 9, 2009, he had been placed on continuing legal education (CLE) restricted status. The Director asked respondent to provide within two weeks proof of compliance with CLE requirements and an affidavit concerning his practice of law since April 9, 2009. The Director reminded respondent of his duty to cooperate. (Ex. 75.) Respondent again failed to respond to the Director's April 3 letter (Ex. 77). Additionally, respondent failed to provide the requested affidavit until September 2, 2009 (Ex. 76).

180. On May 18, 2009, the Director again wrote to respondent and requested responses to the Director's April 3 and April 27 letters. Respondent was once again reminded of his duty to cooperate. (Ex. 77.) Respondent failed to respond (Ex. 82).

181. On June 1, 2009, the Director left a message for respondent at his office expressing concern that respondent may be practicing while unauthorized, as respondent failed to provide the affidavit requested on April 27, and requesting proof of respondent's reinstatement (Jorgensen Aff., ¶ 5).

182. On June 1, 2009, respondent returned the Director's telephone call and indicated that he had been reinstated to the practice of law. Respondent promised to provide his response to the Director's letters by June 15, 2009. Respondent failed to do so. (Jorgensen Aff., ¶ 5.)

183. On June 19, 2009, the Director sent respondent notice of investigation of Khasse's complaint. The Director sent the notice to the address maintained for respondent in the lawyer registration records. Respondent was asked to provide the Director with a complete written response to the complaint within 14 days. (Ex. 78.) Respondent failed to respond (Ex. 79).

184. On July 15, 2009, the Director wrote to respondent for a second time to request his written response to Khasse's complaint. Respondent was again reminded of his duty to cooperate with the disciplinary investigation. (Ex. 79.) Respondent failed to respond (Ex. 80).

185. On July 22, 2009, the Director wrote to respondent for a third time to request his response to Khasse's complaint prior to a July 30, 2009, scheduled meeting with representatives of the Director's Office. Respondent was again reminded of his duty to cooperate. (Ex. 80.) Respondent failed to provide his response by July 29, 2009 (Ex. 82).

186. Also on July 22, 2009, the Director requested that respondent bring to the July 30 meeting his original client files concerning his representation of Landoni, Morales, De La Cruz and Khasse (Ex. 81).

187. On July 30, 2009, respondent appeared at the Director's Office for the meeting as scheduled. Respondent did not bring his client files to the meeting as requested. Respondent did not bring his written response to Khasse's complaint. At the meeting, respondent promised to provide the additional information the Director began requesting on April 3 by August 14, 2009. Respondent failed to do so. (Jorgensen Aff., ¶ 6.)

188. At the July 30, 2009, meeting, respondent promised to produce his response to Khasse's complaint by August 14, 2009. On July 31, 2009, immediately following the July 30, 2009, meeting with respondent, the Director sent respondent a letter specifically outlining the outstanding information and documentation required of him, including a written response to Khasse's complaint. Respondent failed to provide any information or documentation to the Director. (Jorgensen Aff., ¶ 8; Exs. 82 and 83.)

189. On August 14, 2009, respondent telephoned the Director's Office and advised the receptionist he needed until August 18, 2009, to produce his response; however, respondent failed to do so (Jorgensen Aff., ¶ 9; Ex. 83).

190. On August 19, 2009, the Director wrote to respondent requesting the outstanding information and documentation concerning the Landoni and Morales, De La Cruz and Khasse complaints. The Director informed respondent that non-cooperation has been the basis of public discipline even where the underlying misconduct standing alone may not warrant public discipline. (Ex. 83.)

191. On September 2, 2009, respondent provided, among other documents, his written response to Khasse's complaint dated August 10, 2009; however, as of the date

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of the petition for disciplinary action, respondent failed to produce the outstanding information concerning the Landoni and Morales and De La Cruz complaints (Ex. 84).

192. On October 8, 2009, the Director requested additional information and documentation from respondent regarding Khasse's complaint. As of the date of the petition for disciplinary action, respondent failed to respond. (Ex. 85; Jorgensen Aff., ¶¶ 10, 14.)

193. On November 18, 2009, the Director sent respondent notices of investigation regarding the Chi, Akosa and Ngum complaints. The Director sent the notices to the address maintained for respondent in the lawyer registration records. Respondent was asked to provide the Director with a complete written response to each complaint within 14 days. (Ex. 86.) Respondent failed to respond (Jorgensen Aff., ¶ 14).

194. On December 10, 2009, the Director requested respondent to respond to the Chi, Akosa and Ngum complaints within one week. Respondent was again reminded of his duty to cooperate. (See Ex. 87.)

195. On December 15, 2009, attorney Michael McGlennen (McGlennen) advised the Director that he represented respondent regarding all matters currently under investigation by the Director's Office, including the Chi, Akosa and Ngum complaints (Ex. 88). McGlennen requested, and was granted, until mid-January to provide respondent's written responses to the complaints (Ex. 89).

196. On December 31, 2009, the Director wrote to McGlennen and requested respondent's responses to the Director's April 3, July 31 and October 8, 2009, letters (Ex. 90).

197. By letter dated December 26, 2009, but faxed to the Director's Office on January 28, 2010, McGlennen advised the Director that respondent failed to respond to his telephone calls or letters and, therefore, he was withdrawing from the representation of respondent (Ex. 91).

198. On January 29, 2010, the Director wrote to respondent and requested that he provide written responses to the Chi, Akosa and Ngum complaints by February 5, 2010 (Ex. 92). Respondent failed to respond (Jorgensen Aff., ¶ 14).

199. On September 2, 2010, the Director, in anticipation of issuing charges of unprofessional conduct, afforded respondent one last opportunity to respond to the Chi, Akosa and Ngum complaints. The Director gave respondent until September 15, 2010, to respond. (Ex. 93.) Respondent failed to respond (Jorgensen Aff., ¶ 14).

200. On September 17, 2010, respondent called the Director's Office and stated he had just received the Director's September 2, 2010, letter. Respondent requested to meet with representatives of the Director's Office. A meeting was scheduled for September 22, 2010. (Jorgensen Aff., ¶ 12.)

201. On September 22, 2010, respondent appeared at the Director's Office for the meeting as scheduled. At the meeting, respondent agreed to provide the outstanding information concerning the De La Cruz and Khasse complaints on or before October 6, 2010. Respondent also agreed to provide responses to the Chi, Akosa and Ngum complaints on or before October 6, 2010. (Ex. 94; Jorgensen Aff., ¶ 13.)

202. In a September 23, 2010, letter to respondent, the Director reminded respondent of all the outstanding information the Director expected to receive by October 6, including copies of his client files concerning his representation of Landoni and Morales, De La Cruz, Khasse, Chi, Akosa and Ngum (Ex. 94). Respondent failed to provide the outstanding information and responses (Jorgensen Aff., ¶¶ 14-15).

203. As of the date of the petition for disciplinary action, respondent failed to provide written responses to the Chi, Akosa and Ngum complaints (Jorgensen Aff., ¶¶ 14-15).

204. On May 25, 2011, the Director sent respondent notice of investigation of Matara's complaint. The Director sent the notice to respondent's Columbia Heights

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address. Respondent was asked to provide the Director with a complete written response to the complaint within 14 days. (Ex. 109.) Respondent failed to respond (Jorgensen Aff., ¶ 18).

205. Although respondent had apparently updated his address with lawyer registration, respondent did not notify the Director of his address change despite knowing these disciplinary matters were still pending (Jorgensen Aff., ¶ 16).

206. On June 15, 2011, the Director wrote to respondent at his Columbia Heights address for a second time to request his written response to Matara's complaint (Ex. 110). On June 16, 2011, upon discovering that respondent's address was different, the Director mailed the May 25, 2011, notice of investigation to respondent's new address, as well as to the address listed on Matara's complaint. Respondent was reminded of his duty to cooperate with the disciplinary investigation. (Ex. 111.) Respondent failed to respond (Jorgensen Aff., ¶ 18).

207. On July 7, 2011, the Director wrote to respondent for a third time to request his response to Matara's complaint (Ex. 112). Respondent failed to respond (Jorgensen Aff., ¶ 18).

208. On July 18, 2011, respondent telephoned the Director's Office and left a message with the receptionist indicating that he had just returned from Kenya and was getting over a case of gout. Respondent further indicated he would respond to the complaint by the end of the week. (Jorgensen Aff., ¶ 17.)

209. On July 19, 2011, the Director wrote to respondent confirming that respondent was expected to provide his response to Matara's complaint no later than July 22, 2011 (Ex. 113).

210. As of the date of the petition for disciplinary action, respondent failed to produce his written response to Matara's complaint (Jorgensen Aff., ¶ 18).

Unauthorized Practice of Law

211. On or about November 14, 2008, the Minnesota Board of Continuing Legal Education (MBCLE) advised respondent that he either had not completed or failed to report his CLE requirements as required by Rule 11, Rules of the Minnesota State Board of Continuing Legal Education. Respondent was requested to submit documentation of his CLE compliance within 60 days. Respondent failed to comply with MBCLE's request. (Vanderbeek Aff., ¶ 3 & Ex. A.)

212. On or about January 8, 2009, MBCLE sent respondent a notice of non-compliance. Respondent was again requested to provide documentation regarding completed CLE courses or exercise other options as outlined in the notice of non-compliance within 30 days. The notice of non-compliance advised respondent his license would be submitted to the Minnesota Supreme Court to be placed on involuntary restricted status should he fail to respond. Respondent failed to provide documentation of his CLE compliance or otherwise respond to MBCLE. (Vanderbeek Aff., ¶ 4 & Ex. B.)

213. On or about April 3, 2009, respondent received a USCIS asylum interview notice scheduling an April 16, 2009, asylum interview on behalf of his client Edith Mawoneke (Mawoneke) in Arlington, Virginia (Ex. 15).

214. On April 6, 2009, MBCLE recommended to the Minnesota Supreme Court that respondent's law license be placed on involuntary restricted status (Vanderbeek Aff., ¶ 5). On April 9, 2009, the Court issued an order placing respondent on involuntary restricted status. A lawyer on restricted status may not engage in the practice of law or represent any person or entity in any legal matter or proceeding within the State of Minnesota other than himself. (Ex. 95.)

215. From April 9, 2009, to April 27, 2009, respondent was not authorized to practice law (Exs. 95 and 96).

216. Respondent is not licensed in any other jurisdiction (*see generally* Exs. 19, 20 and 103). On April 16, 2009, while on restricted status, respondent attended Mawoneke's asylum interview as scheduled in Arlington, Virginia (Ex. 76).

Aggravating and Mitigating Factors

217. After disciplinary proceedings were commenced, respondent continued to fail to cooperate and continued to fail to obey court rules.

a. On November 30, 2011, the Director served on respondent interrogatories and request for production of documents (Ex. 114, Chaudhary Aff. (filed with the Director's motion to compel)). Respondent's responses to discovery were due within 30 days of the date of service. Minn. R. Civ. P. 33 and 34. The undersigned's December 20, 2011, scheduling order, however, gave the parties until January 9, 2012, to respond to previously served discovery (Ex. 114, Chaudhary Aff.). Respondent failed to respond (Ex. 114).

b. On January 12, 2012, the Director served and filed a motion to compel (Ex. 114). On January 26, 2012, the undersigned issued an order compelling respondent to respond to the Director's interrogatories and request for production of documents no later than February 3, 2012 (Ex. 115). Respondent failed to respond by February 3, 2012, and, therefore, failed to comply with the undersigned's order (Ex. 116, Chaudhary Aff. (filed with the Director's motion to strike)).

218. Respondent's misrepresentations were made for a selfish purpose: to avoid detection of his neglect and non-communication.

219. Respondent's misconduct consists of multiple acts of serious professional misconduct over an extended period of time and across multiple matters.

220. Respondent's professional misconduct covers most of the period respondent has been in practice.

221. Respondent's misconduct was intentional.

222. Respondent's conduct constitutes a pattern of misconduct.

223. Respondent's misconduct in the Khasse, Chi, Akosa, Ngum and Matara matters and his unauthorized practice of law occurred while the investigation of other complaints against respondent was proceeding.

224. Respondent's immigration clients were vulnerable due to their uncertain immigration statuses.

225. Respondent refused to acknowledge his misconduct, exhibited no remorse for his misconduct, and failed to offer any evidence or assurance that he will not engage in similar future misconduct (R. Test.). Respondent offered no evidence that he understood, regretted, or was sorry or remorseful for the wrongful nature of his conduct. To the contrary, respondent steadfastly maintained throughout the proceedings that he did not commit a significant majority of the misconduct alleged in the petition for disciplinary action (R. Ans.).

226. Respondent neither claimed nor offered any admissible credible evidence of any legally recognized mitigation of the sanction for his misconduct.

227. Based upon the testimony of attorney Steven Thal and of respondent, the referee finds that immigration clients may have a strong incentive to fault their former attorney after an unfavorable decision. It appears that such allegations may be generally more frequently raised and favorably treated in immigration cases than in other typical non-immigration cases. Therefore the referee examined the evidence seeking to determine whether false claims against respondent in this proceeding were made by clients because of this incentive. Some claims of fault by respondent were made by those complainants in the present proceeding as grounds for their appeal or other subsequent proceedings in their immigration matters. However the referee finds

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that their complaints against respondent, while deserving of greater scrutiny, were credible in this proceeding as expressly otherwise found herein.

228. Respondent did not disclose any information regarding mental health or chemical dependency mitigating factors prior to the deadline for disclosure of January 9, 2012 imposed by the referee. Nonetheless respondent at the evidentiary hearing sought to offer his testimony regarding marital or other personal alleged problems alleging affecting his psychological condition. The Director objected to the testimony as being untimely as to notice, and the referee received the testimony to preserve the record while also preserving the Director's objections for later ruling. The referee now sustains the Director's objections to this previously-undisclosed evidence, and independently finds the offered evidence even if it were received to be insufficient to support any mitigation.

229. While not a ground for mitigation, the referee finds for the record that respondent has no prior professional discipline history.

### CONCLUSIONS OF LAW

1. Respondent's conduct in the Landoni and Morales matter violated Rules 1.1, 1.3, 1.4, 1.16(d), 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).<sup>3</sup>
2. Respondent's conduct in the De La Cruz matter violated Rules 1.3, 1.4, 1.5(b), 1.6(a), 1.15(c)(2) and (c)(5) and 1.16(d), MRPC.
3. Respondent's conduct in the Khasse matter violated Rules 1.3, 1.4, 1.5(b), 1.15(c)(5) and 1.16(d), MRPC.
4. Respondent's conduct in the Chi matter violated Rules 1.1, 1.3, 1.4, 1.5(a), 1.16(d), 3.2, 3.3(a)(1), 3.4(c), 4.1 and 8.4(c) and (d), MRPC.

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<sup>3</sup> The petition for disciplinary action alleged that respondent also violated Rule 4.1, MRPC, in this matter. That allegation has been withdrawn.

5. Respondent's conduct in the Akosa matter violated Rules 1.1, 1.4, 1.5(a) and (b), 1.16(d) and 8.4(d), MRPC.

6. Respondent's conduct in the Ngum matter violated Rules 1.1, 1.3, 1.4, 1.5(a), 1.16(d), 3.2, 4.1 and 8.4(c) and (d), MRPC.

7. Respondent's conduct in the Matara matter violated Rules 1.1, 1.2(a), 1.3, 1.4, 1.5(a) and (b), 1.15(a) and (c)(5), 1.16(d), 4.1 and 8.4(c) and (d), MRPC.<sup>4</sup>

8. Respondent's failure to cooperate with the disciplinary investigation violated Rules 8.1(b) and 8.4(d), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

9. Respondent's conduct in practicing law while on CLE-restricted status violated Rule 5.5(a), MRPC.

10. Respondent's dishonest misconduct was committed for a selfish purpose, to hide his misconduct. This aggravates his misconduct.

11. Respondent's commission of multiple acts of serious and intentional professional misconduct over an extended period of time and across multiple matters aggravates the sanction for respondent's misconduct.

12. Respondent's experience in the practice of law does not mitigate the sanction for respondent's dishonest misconduct. *In re Ward*, 563 N.W.2d 70, 72 (Minn. 1997) (Supreme Court holding that "youth and inexperience do not mitigate acts of dishonesty.").

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<sup>4</sup> Paragraph 160 of the petition for disciplinary action was amended on the record at the start of the disciplinary hearing by agreement of the parties to conform the pleadings to respondent's stipulation shortly before trial that none of the funds received as alleged in the petition for disciplinary action as having to be placed in trust were placed into a trust account. Accordingly, an alleged violation of Rule 1.15(a), MRPC, was added and the alleged violation of Rule 1.15(c)(4), MRPC, was withdrawn.

13. Respondent's lack of prior disciplinary history does not mitigate the sanction for respondent's misconduct. *In re Aitken*, 787 N.W.2d 152, 162 (Minn. 2010); *In re Rebeau*, 787 N.W.2d 168, 176 (Minn. 2010).

14. Respondent's failure to cooperate and failure to obey court rules after disciplinary proceedings were commenced aggravates the sanction for respondent's misconduct.

15. Respondent's failure to recognize and acknowledge the wrongful nature of his conduct or to express remorse for his misconduct aggravate the sanction for respondent's misconduct.

16. There is no factor which mitigates the sanction for respondent's misconduct.

#### RECOMMENDATION FOR DISCIPLINE

Based on the foregoing findings and conclusions, the undersigned recommends:

1. That respondent, Joseph Awah Fru, be indefinitely suspended from the practice of law, ineligible to apply for reinstatement for a minimum period of two years from the date of the Court's suspension order.

2. That the reinstatement hearing provided for in Rule 18, RLPR, not be waived.

3. That reinstatement be conditioned upon:

- a. completion of the minimum period of suspension;
- b. compliance with Rule 26, RLPR;
- c. payment of \$900 in costs, plus disbursements, pursuant to Rule 24, RLPR;
- d. successful completion of the professional responsibility examination pursuant to Rule 18(e), RLPR;

e. satisfaction of the CLE requirements pursuant to Rule 18(e),  
RLPR; and

f. proof by respondent by clear and convincing evidence that he has  
undergone moral change, that he is fit to practice law and that future misconduct  
is not apt to occur.

Dated: April 28, 2012

BY THE COURT:

A handwritten signature in black ink, appearing to read "Bruce W. Christopher", written over a horizontal line.

BRUCE W. CHRISTOPHERSON  
SUPREME COURT REFEREE