

FILE NO. A13-2350

STATE OF MINNESOTA

IN SUPREME COURT

RECEIVED

JAN 31 2014

OFFICE OF LAWYERS
PROF. RESP.

In Re Petition for Disciplinary Action
against HERBERT AZUBUIKE IGBANUGO,
a Minnesota Attorney,
Registration No. 191139.

SUPPLEMENTARY PETITION
FOR DISCIPLINARY ACTION

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this supplementary petition for disciplinary action pursuant to Rules 10(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of an October 15, 2013, petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

FIFTH COUNT

Sabhari Matter

98. In or about 1993, Ali Sabhari immigrated to the United States. He then married Susan Sabhari.

99. The Sabharis retained the Blackwell firm, the law firm with which respondent was then associated, to represent them in immigration-related matters.

100. The Sabharis entered into the following contracts for legal services:

a. On December 30, 2005, the Sabharis entered into a contract for legal services with the Blackwell firm and a rider to that contract for representation on a complaint for declaratory relief in federal district court regarding a Form I-130 marriage petition. The contract provided for a \$25,000 flat fee.

b. On January 4, 2006, the Sabharis entered into a contract for legal services with the Blackwell firm and a rider to that contract for representation in a complaint for declaratory relief in federal district court. The contract provided for a \$15,000 flat fee.

c. On September 25, 2006, the Sabharis entered into a contract for legal services with the Blackwell firm and a rider to that contract for representation in a petition for review and briefing to the Eighth Circuit Court of Appeals regarding an asylum matter. The contract provided for a \$6,500 flat fee.

d. On April 5, 2007, the Sabharis entered into a contract for legal services with the Igbanugo firm, the firm of which respondent is the founder and sole shareholder and with which respondent then practiced (and continues to practice), and a rider to that contract for representation on a response to the government's appeal to the Eighth Circuit Court of Appeals regarding the district court's ruling on the form I-130. The contract provided for a \$14,500 flat fee.

101. During respondent's representation of the Sabharis, respondent filed requests in federal district court and to the Eighth Circuit Court of Appeals for an award of fees pursuant to the Equal Access to Justice Act (EAJA). Ultimately, respondent received \$52,500 from the government pursuant to the EAJA.

102. The Igbanugo firm retained the fees received pursuant to the EAJA in their entirety and did not credit any portion of those fees against the fees the Sabharis owed to the Igbanugo firm.

103. Respondent determined to bring a lawsuit in the name of the Igbanugo firm against the Sabharis for attorney's fees and costs he alleged to be unpaid. At the time, the Sabharis were no longer respondent's clients. Accordingly, at respondent's directive, in or about June 2011 a complaint against the Sabharis seeking payment under the parties' retainer agreements was served and filed. In October 2011, the Igbanugo firm moved for default judgment.

104. During the default hearing, the firm stated that the Sabharis owed \$38,799.94. The amount the Igbanugo firm claimed, however, failed to credit any of the EAJA award. The motion for default judgment was denied.

105. On or about May 16, 2012, the Sabharis served and filed a motion for summary judgment.

106. By order filed September 11, 2012, the court granted the Sabharis' motion for summary judgment. The court found that the Igbanugo firm was not entitled to keep the entire EAJA award, rejected the argument that the retainer agreements allowed the Igbanugo firm to do so, and ordered the Igbanugo firm to refund to the Sabharis \$13,700.06 in "excess fees."

107. The Igbanugo firm appealed, and in September 2013 the Minnesota Court of Appeals affirmed.

108. Respondent's conduct violated Rules 1.5(a), 3.1, and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

SIXTH COUNT

Silva Matter

109. In or about the first week of May 2009, Roman Rodriguez and Yadira Silva, husband and wife, retained respondent to represent them in an immigration matter to obtain permanent resident status for Rodriguez.

110. Prior to this time, respondent had worked for Rodriguez's extended family for over a decade. Respondent has very good friends among Rodriguez's relatives, including a deceased uncle of Rodriguez's who referred over 100 people to respondent as clients over many years.

111. On or about June 26, 2013, Silva met with respondent and requested respondent to provide to her a copy of respondent's file. Respondent chose not to provide the file to her. Respondent subsequently stated to the Director that he was concerned that Silva, a United States citizen who was experiencing marital difficulties with her husband, might use Rodriguez's immigration status, a withdrawal of an immigration petition and/or threats of deportation against Rodriguez.

112. On or about July 17, 2013, the Director mailed to respondent notice of investigation of Silva's complaint against respondent.

113. By letter dated August 15, 2013, respondent provided a copy of the file to Silva and Rodriguez. Respondent provided the file because Silva filed a complaint with the Director.

114. Respondent's conduct violated Rule 1.16(d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers

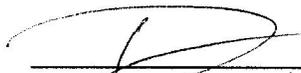
Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: January 21, 2014.



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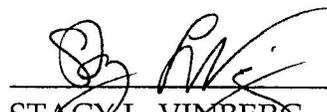
and



TIMOTHY M. BURKE
SENIOR ASSISTANT DIRECTOR
Attorney No. 19248x

This supplementary petition is approved for filing pursuant to Rule 10(e), RLPR, by the undersigned.

Dated: January 29, 2014.



STACY L. VINBERG
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD