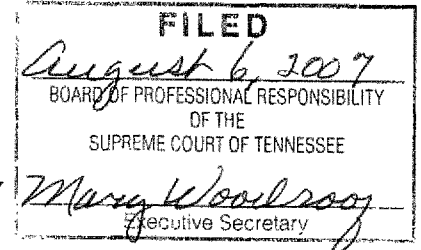


**IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: TIMOTHY DARNELL FLOWERS, #19382, DOCKET NO. 2005-1564-9-JJ
Respondent. An Attorney Licensed
to Practice Law in Tennessee
(Shelby County)**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This cause came on to be heard on the 21st day of June, 2007 before the Hearing Panel in Memphis, Tennessee, testimony of the respondent and witness, statements of counsel and the entire record in this cause, from which the Panel hereby submits the following Findings of Fact, Conclusions of Law, and Judgment:

I.

FINDINGS OF FACT

GENERAL

1. Respondent Timothy Darnell Flowers was licensed to practice law in Tennessee in 1999. He has worked largely as a sole practitioner during that time and has concentrated his practice in immigration law. He has practiced primarily in Memphis and has had satellite offices in Louisville, KY.

2. Respondent has handled, according to his own testimony, between 800 and 1,000 individual immigration law cases before the Immigration Courts, the Board of Immigration Appeals (BIA), and the US Court of Appeals for the Sixth Circuit, since he has been licensed to practice law.

DOCKET NO. 2005-1564-9-JJ

COUNT ONE - - COMPLAINT OF MAMADOU PAME (FILE NO. 27773c-9-JJ)

3. Between December 9, 2004 and January 21, 2005, the Board forwarded three (3) notice letters to respondent and enclosed copies of Mr. Pame's complaint (dated December 9 & 30, 2004, and January 19, 2005), requesting respondent to respond to the complaint, advising him that his initial response was overdue, and that a further failure to respond would result in a petition being filed with the Tennessee Supreme Court seeking the temporary suspension of his law license. Respondent did not submit his initial response in this file until January 21, 2005 and only after receiving the third notice letter.

4. Complainant Mamadou Pame paid respondent \$1,500 in attorney fees between October 31, 2002 and April 28, 2003 in Mr. Pame's Immigration Law matter pending before the BIA, and respondent characterized these payments as payments for "non-refundable retainer" and "brief preparation", according to respondent's receipts. However, respondent never prepared any written employment contract signed by himself and Mr. Pame for representation in Mr. Pame's legal matter.

5. Respondent requested a copy of the Immigration Judge's decision in Mr. Pame's case by signing and filing such request with the Immigration Court as Mr. Pame's attorney, on November 5, 2002. Respondent prepared a 3 ½ page letter to the BIA which was characterized as a brief in Mr. Pame's matter, signed Mr. Pame's name to this brief, and on May 8, 2003 mailed this letter/brief to the BIA on Mr. Pame's behalf. Respondent did not send Mr. Pame a copy of the May 8, 2003 brief either before or after he filed it with the BIA.

6. Respondent prepared the May 8, 2003 brief in his capacity as a licensed attorney, the brief was respondent's work product, and respondent has no written evidence of an agreement for respondent to sign Mr. Pame's name to the brief or that Mr. Pame had agreed for respondent to limit his services to document preparation without respondent having any obligation to appear before the BIA as Mr. Pame's attorney. Respondent did not send Mr. Pame any correspondence requesting this complainant to pick up his file, after respondent filed the May 8, 2003 brief.

7. By engaging in undisclosed and extensive participation and preparation as an attorney for Mr. Pame's legal matter, respondent engaged in misleading conduct in violation of RPC 8.4(a)(c)(d). By failing to properly communicate with the client and failing to properly explain his role to the client sufficiently, or to permit the client to make informed decisions, respondent has violated RPCs 1.4(a)(b), & 8.4(a)(c)(d). By failing to timely respond to the Board's request for a response to the disciplinary complaint, respondent has violated RPCs 8.1(b), & 8.4(a)(d).

COUNT TWO - - COMPLAINT OF FOWZIA MOHAMED (FILE NO. 28174-9-JJ)

8. Between May 2 and June 22, 2005, the Board forwarded four (4) notice letters to respondent and enclosed copies of Ms. Mohamed's complaint (dated May 2, May 18, June 8, and June 22, 2005) requesting respondent to respond to the complaint, advising him that his initial response was overdue, and that a further failure to respond would result in a petition being filed seeking the temporary suspension of his law license. Respondent did not submit his initial response in this file until July 14, 2005, and only after receiving the fourth notice letter.

9. Respondent accepted representation of Fowzia Mohamed in her asylum case on February 9, 2001, agreed to file appeal for her to the BIA which was due on March 12, 2001,

received \$750 in attorney fees and \$110 in filing fees the week following February 8, 2001, but failed to file the appeal for her by March 12, 2001. Respondent did not send Ms. Mohamed any letter or e-mail advising that he had failed to timely file the appeal, but in January, 2003, respondent assigned responsibility for filing a motion to reopen in Ms. Mohamed's case to Wendy Newberry, an associate of respondent's office at the time. Ms. Newberry filed the motion to reopen in Ms. Mohamed's matter on January 27, 2003.

10. Respondent never received any written correspondence or e-mail from Ms. Mohamed, or had any phone conversation with her wherein she agreed for respondent's law office to file the motion to reopen which was filed in January of 2003, no one with respondent's law office ever sent the complainant any written correspondence or e-mail explaining why respondent was considering filing a motion to reopen nearly 2 years after the immigration judge's decision denying the claim, and respondent never sent this complainant any correspondence to confirm in writing that she had agreed for respondent to file the motion to reopen which was filed in January, 2003.

11. Respondent did not send this complainant a full copy of her case file after he concluded his representation, and several documents were missing from the file he did maintain. Respondent had not, as of the June 21, 2007 hearing, made the \$860 refund of fees and costs to this complainant which respondent first proposed to make within his July 22, 2005 initial written response, and which he agreed again to make at his December 6, 2006 deposition.

12. By engaging in a pattern of dilatoriness and a pattern of failing to timely respond to the Board in this complaint, respondent has violated RPCs 8.1(b) & 8.4(a)(d). By his neglect, his failure to move with reasonable diligence and promptness, and his failure to properly inform his client in a timely fashion about the status of her case, respondent has violated DR 1-

102(A)(1)(5)(6); DR 6-101(A)(3), DR 7-102(A)(1)(2)(3) & RPCs 1.3, 1.4(a)(b), & 8.4(a)(d). His failure and refusal to refund to this complaint the fees and costs which he agrees were unearned, and which he has agreed to do for a 2 year period, is violative of RPCs 1.3, 1.4(a)(b), 1.5(a) & 8.4(a)(c)(d) & DR 1-102(A)(1)(5)(6) and DR 2-106(A).

COUNT THREE - - COMPLAINT DISCOVERED DURING INVESTIGATION
(FILE NO. 28187-9-JJ)

13. On March 9, 2005, the Board faxed to respondent a copy of respondent's insufficient funds escrow account refund check in the amount of \$800 to former complainant Ahmed Bah, and within this March 9, 2005 facsimile, the Board requested that respondent advise immediately as to the status of this serious matter. On March 10, 2005, respondent did send to Mr. Bah a replacement cashier's check of \$800, but through mid-May of 2005, respondent did not provide any further information or documentation explaining how the escrow account overdraft occurred and establishing that there had been no misappropriation of entrusted funds from his escrow account.

14. Between May 13 and July 1, 2005, the Board forwarded four (4) notices to respondent (dated May 13, May 26, June 8, and June 22, 2005), requesting respondent to respond to the disciplinary complaint in this file, advising him that his initial response was overdue, and that a further failure to respond would result in a petition being filed with the Tennessee Supreme Court seeking the temporary suspension of his law license. On July 1, 2005, the Board faxed respondent a final notice denying his request for an extension of time until August 1, 2005, given the prior pattern of delay, and informed him in this July 1, 2005 fax that if his written response was not received by July 14, 2005, the petition for temporary suspension would be filed.

15. In early December of 2004, respondent voluntarily agreed to refund \$800 in unearned fees and costs to Mr. Bah (complainant in File No. 27424-9-jj), and on December 8, 2004, respondent sent written evidence to the Board establishing that he had sent this refund to his former client. On February 24, 2005, respondent received a Private Reprimand from the Board (which involved a complaint filed against him by Ahmed Bah), and within this Private Reprimand, the Board granted mitigating credit to respondent, given his agreement to refund this \$800 to Mr. Bah by approximately December 10, 2004. Respondent's December 8, 2004 refund check to Mr. Bah which bounced, was written from his Memphis Area Teachers' Credit Union (MATCU) escrow account.

16. Respondent understood he had been given mitigating credit in the February 24, 2005 Private Reprimand for having made the \$800 refund to Mr. Bah in early December, 2004, and admits he did not deposit \$800 into his MATCU escrow account on Mr. Bah's behalf before he sent this \$800 refund to Mr. Bah on December 8, 2004.

17. By his actions in issuing a refund check to Mr. Bah out of escrow for the refund of unearned fees and costs which respondent never deposited into escrow, subverting the mitigating credit given his delay for a 3 month period of this client's refund, respondent has failed to properly segregate funds of the attorney from those of the client and his engaged in conduct which is prejudicial to the administration of justice in violation of RPCs 1.3, 1.15(b) & 8.4(a)(d). By misleading the former client that the refund was being sent out in early December of 2004, respondent had violated 1.4(a)(b) and 8.4(a)(c)(d). By failing to timely respond to the disciplinary complaint in this matter, respondent has violated RPCs 8.1(b) and 8.4(a)(d).

COUNT FOUR - - COMPLAINT OF KADIJA JALLOH (FILE NO. 28210-9-JJ)

18. Between May 16 and July 19, 2005, the Board forwarded four (4) notice letters to respondent (dated May 16, June 20, July 6, and July 19, 2005) requesting respondent to respond to the complaint, advising him that his initial response was overdue, and that a further failure to respond would result in a petition being filed with the Tennessee Supreme Court seeking the temporary suspension of his law license. Respondent did not submit his initial response in this matter until late on the afternoon of July 19, 2005, and only after being sent four notice letters.

19. Respondent accepted representation in Ms. Jalloh's asylum matter in September of 2003, and advised this client by correspondence dated December 9, 2003 that her individual evidentiary hearing was set before the Immigration Judge on June 17, 2004. On June 10, 2004, respondent filed a motion for continuance of the June 17, 2004 hearing, but he did not send to this complainant a copy of the motion to continue at the time he filed it. Respondent contended in his June 10, 2004 motion that the complainant was still awaiting the receipt of essential documentation that would confirm her identity. For whatever reason, there was confusion between respondent's office and complainant regarding whether the June 17, 2004 hearing had been continued.

20. The Immigration Judge did not grant the respondent's motion for continuance of this complainant's hearing and on the morning of June 17, 2004 hearing, the Judge ordered this complainant removed *in absentia* since she did not appear.

21. Although complainant delivered her birth certificate to respondent in October of 2004, respondent did not file a motion to reopen Ms. Jalloh's case until March 9, 2005, and he did not send to this client a copy of the March 9, 2005 motion to reopen at the time he filed it with

the Immigration Court.

22. By his actions in failing to timely respond to the Board regarding this disciplinary complaint, respondent has violated RPCs 8.1(b) and 8.4(a)(d). By his actions in failing to deliver to the client copies of the motions which he was filing at the time he filed them, and his failure to file the motion to reopen for a 5 month period after he received the essential documentation confirming this complainant's identify, respondent violated RPCs 1.3, 1.4(a)(b) and 8.4(a)(d).

COUNT FIVE - - COMPLAINT OF MOUMINY BAH (FILE NO. 28432-9-JJ)

23. Between August 19 and September 19, 2005, the Board forwarded three (3) notices and enclosed copies of Mr. Bah's complaint (dated August 19, September 6, and September 17, 2005), requesting respondent to respond to the complaint, advising him that his initial response was overdue, and that a further failure to respond would result in a petition being filed with the Tennessee Supreme Court seeking the temporary suspension of his law license. Respondent did not submit his initial response in this file until September 21, 2005, and only after receiving the third notice letter.

24. Complainant Mouminy Bah paid respondent \$710 to file the appeal to the BIA in Mr. Bah's asylum case in enough time for respondent to accomplish this by the June 9, 2004 deadline. Respondent knew that this deadline was June 9, 2004, and admits that he never filed the appeal to the BIA on behalf of Mr. Bah and that he never sent this client any correspondence admitting this neglect. Complainant Mouminy Bah's appeal to the BIA has been time barred for 2 years as of the filing of the May 31, 2006 Supplemental Petition for Discipline.

25. Respondent's prior counsel promised within September 21, 2005 correspondence to the Board that respondent would refund to complainant Mouminy Bah the \$710

in unearned fees and costs within 60 days, but as of November 21, 2005 and January 21, 2006 respondent had not refunded the sum to Mr. Bah or to his new lawyer. As of December 6, 2006 at deposition, respondent still had not refunded the \$710 to Mr. Bah or to his new lawyer and respondent had been provided with the addresses of both Mr. Bah and his new lawyer. Respondent had been in touch with this complainant's new lawyer less than 60 days prior to his December 6, 2006 deposition in this disciplinary matter, and promised Mr. Bah's new lawyer he was making the refund.

26. Respondent did not maintain within his attorney escrow account the \$710 in unearned fees which Mouminy Bah paid him from the date of his receipt of these funds in May or June of 2004, through the date of respondent's December 19, 2006 Answers to the Board's Requests for Admissions, or through the present. Respondent did not send a \$710 refund check to Mr. Bah from his operating account until June 19, 2007 - - two days before the hearing in this matter.

27. By constantly misleading the Board, this complainant, and the complainant's new lawyer for nearly a 2 year period to the effect that the \$710 refund was being expeditiously made, respondent has violated RPCs 1.3, 1.4(a)(b), 1.16(d)(4)(5) and 8.4(a)(c)(d). By continuing in his pattern of dilatoriness in responding to this Board's requests for him to timely submit his answer to disciplinary complaints, respondent has violated RPCs 8.1(b) and 8.4(a)(d). By failing to file Mr. Bah's appeal by the June 9, 2004 deadline and never sending this client any correspondence admitting this neglect, respondent has neglected a legal matter and failed to properly communicate with a client in violation of RPCs 1.3, 1.4(a)(b), and 8.4(a)(d).

COUNT SIX- - COMPLAINT OF VICTOR PEREZ-MENDEZ (FILE NO. 28721-9-JJ)

28. Respondent accepted representation of complainant Victor Perez-Mendez on

or about March 14, 2005, agreeing to represent this client in his application for statutory cancellation of removal, for asylum and for NACARA relief at the individual evidentiary hearing set for October 4, 2005, and months prior to October 4, 2005, respondent determined that the prospects for prevailing on the statutory cancellation removal claim were not very good. About 1 week prior to the October 4 2005 hearing, respondent wrote Mr. Perez-Mendez, advising him that respondent would not be able to handle the hearing because the TN Commission on CLE and Specialization had recently filed a petition with the TN Supreme Court to suspend respondent's law license for failure to obtain mandatory CLE.

29. On October 3, 2005, the Tennessee Supreme Court filed an Order suspending respondent and many other Tennessee lawyers from the practice due to the respondent's and many other lawyers' failure to obtain required CLE. While respondent was of the opinion that Mr. Perez-Mendez' chances of prevailing on the application for statutory cancellation of removal were not very good several months prior to the October 4, 2005 hearing date before the Immigration Court, respondent did not communicate that opinion orally or in writing to Mr. Perez-Mendez, and did not seek this complainant's permission to withdraw that claim.

30. On September 29, 2005, respondent filed a motion for continuance with the Immigration Court in Mr. Perez-Mendez' cases which were set for hearing on October 4, 2005. Although respondent did file a motion for continuance in Mr. Perez-Mendez' case on September 29, 2005 due to his impending suspension for failing to obtain CLE, respondent did not file the application, or all documents and proposed exhibits in support of the application within ten (10) working days prior to the scheduled October 4, 2005 hearing in Mr. Perez-Mendez' case.

31. In his October 4, 2005 order filed in Mr. Perez-Mendez' matter, Judge Pazar granted the government's motion to pretermite Mr. Perez-Mendez' application for statutory cancellation of removal due to respondent's failure to file the application and supporting documents within 10 days before the hearing date. Judge Pazar also continued this complainant's application for asylum and NACARA special rule cancellation within this Order to allow this complainant to find other counsel. Immigration Judge Pazar also found within this October 4, 2005 Order that Mr. Perez-Mendez might have an action against respondent under *Matter of Lozada*.

32. Respondent's law license was reinstated from the CLE suspension by the Tennessee Supreme Court on October 15, 2005. Respondent did not ever seek reconsideration of this order entered by Judge Pazar regarding respondent having abandoned the statutory cancellation application of Mr. Perez-Mendez after respondent's law license was reinstated from the CLE suspension.

33. The legal effect of Judge Pazar's ruling premitting the application for statutory cancellation bars Mr. Perez-Mendez from ever filing such an application in the future, which would not be the case had respondent waived this claim on behalf of the client.

34. By failing to file the necessary exhibits within 10 days of the date of the hearing in Mr. Perez-Mendez' statutory cancellation claim, and by failing to seek approval of his client to withdraw that claim months prior to the October 4, 2005 hearing on that claim, respondent neglected Mr. Perez-Mendez' legal matter and failed to move with reasonable promptness, which resulted in the claim being barred in the future. These actions violated RPC's 1.3 and 8.4(a)(d). By failing to sufficiently explain to the client the consequences of failing to withdraw the statutory claim since respondent realized many months prior to the October 4, 2005 hearing that said claim was

weak, and by failing to seek this complainant's permission to withdraw that claim, respondent violated RPC's 1.4(a)(b) and 8.4(a)(d).

COUNT SEVEN - - COMPLAINT OF ALIOU N'DIAYE (FILE NO. 28789-4-JJ)

35. Respondent indicated in a notice of an appeal from (EOIR-26) he filed on April 26, 2000, with the BIA on behalf of complainant Aliou N'Diaye, that he would also be filing a brief in support of this client's appeal in his asylum case. Respondent did not file a brief for Mr. N'Diaye with the BIA, and on March 21, 2002, the BIA dismissed this complainant's appeal.

36. Respondent claims that his failure to file a brief for Mr. N'Diaye before the BIA was a part of respondent's legal strategy, but respondent admits he never sent Mr. N'Diaye any correspondence informing him of this legal strategy.

37. Respondent filed three motions to reopen Mr. N'Diaye's case before the BIA dated September 18, 2002, October 9, 2004 and April 1, 2005, but all of three were denied as time-barred by the BIA. Respondent's September 18, 2002 Motion to Reopen based upon an alleged adjustment of status due to Mr. N'Diaye's February, 2001 marriage to a U.S. citizen, was premature since his spouse's I-130 application was not approved until May of 2004. Under most circumstances, federal regulations require motions to reopen to be filed within ninety (90) days after the adverse BIA's decision.

38. The motion to reopen which respondent filed with the BIA on behalf of Mr. N'Diaye in October of 2004 was rejected in part because respondent did not include the required filing fee, and respondent did not understand that he was required to submit a filing fee along with this motion to reopen.

39. Respondent alleged that there was some oral agreement from counsel for the Department of Homeland Security to file a joint motion with Mr. N'Diaye to reopen and remand this complainant's case back to the Immigration Judge after the approval of the spouse's I-130 in May of 2004, but respondent sent no letter to the Department of Homeland Security requesting a joint motion and has no writing or e-mail from counsel for the Department of Homeland Security wherein said Department agreed to file any such joint motion to reopen and remand. Neither the October, 2004 nor the April 1, 2005 motions to reopen which the respondent filed in Mr. N'Diaye's asylum case contained any signature of counsel for the Department of Homeland Security and neither was a joint motion.

40. Respondent was required to file his motion to reopen in Mr. N'Diaye's case within 90 days of the BIA's March 21, 2002 decision denying the appeal or, to demonstrate a joint agreement with counsel for the Department of Homeland Security that the complainant had an approved I-130. Since the respondent did not demonstrate any joint agreement or file any joint motion to reopen with counsel for the Department, and since all motions to reopen were filed outside the 90 day period, all of the three motions to reopen were found time-barred by the BIA.

41. By failing to file a brief for Mr. N'Diaye as respondent committed to do in his notice of appeal, resulting in the dismissal of Mr. N'Diaye's appeal on March 21, 2002 by the BIA, respondent has violated DR's 1-102(A)(1)(5)(6) and 6-101(A)(3). By failing to file any motion to reopen within 90 days of the BIA's March 21, 2002 dismissal order, by failing to send or understand the requirement to send a filing fee along with the October 2004 motion to reopen, by filing a motion to reopen with the BIA prematurely, alleging an adjustment of Mr. N'Diaye's status where his spouse had not yet received an approved I-130, and by failing, to ever secure any agreement by counsel for

the Department of Homeland Security to jointly reopen and or remand Mr. N'Diaye's case, or to file any actual joint motion seeking such relief after May of 2004, respondent has demonstrated a lack of competency, and he has neglected the complainant's legal matter and has failed to properly explain the actual status of it to the client, in violation of RPC's 1.1, 1.3, 1.4(a)(b) and 8.4(a)(d).

COUNT EIGHT - - COMPLAINT DISCOVERED DURING INVESTIGATION (FILE NO. 28864-9-JJ)

42. Respondent was administratively suspended from the practice of law by the Tennessee Supreme Court on September 7, 2004 for failing to obtain required CLE and was just reinstated by the Court until September 16, 2004. Respondent was administratively suspended from the practice of law by the Tennessee Supreme Court on September 26, 2005 for failing to pay this Board the annual registration fee and his law license was not reinstated from this administrative suspension until January 11, 2006, when he finally paid to the Board his annual registration fee and penalty. The \$500 which respondent paid in October, 2005 for reinstatement of his Tennessee law license was paid to the Tennessee Commission on CLE and Specialization due to his CLE suspension, and not the Board of Professional Responsibility.

43. Respondent engaged in the practice of law in Tennessee by conducting phone conferences and making personal appearances in Court, by filing briefs, motions, petitions, notices of appeal, notices of appearance, requests for copies of hearing tapes and Immigration Judge decisions, and by sending other legal documents to the Immigration Courts, to the BIA and to the Sixth Circuit on behalf of clients during respondent's administrative suspension for failing to pay the annual registration fee between September 26, 2005 and January 10, 2006.

44. Respondent sent no letters to his clients, to the Immigration Courts, to the BIA

or to the Sixth Circuit advising the clients or the tribunals of his two administrative suspensions from the practice of law, between September 7 - 16, 2004, and September 26, 2005 - January 10, 2006. Respondent also sent no letters to his clients advising them of his third administrative suspension from the practice of law between October 3 and October 15, 2005.

45. Respondent admits he received on June 27, 2005 a notice sent by this Board by certified mail on June 24, 2005, informing him that the Board was presenting to the Tennessee Supreme Court a proposed order from the summary suspension of his law license if respondent had not paid within 30 days after receipt of this notice, the annual registration fee which was due on or before March 1, 2005. Respondent admits he did not cure this deficiency by paying his annual registration fee within 30 days after June 27, 2005.

46. Respondent was counsel of record for approximately 60 clients with cases pending before the Memphis Immigration Court and for many other clients before the BIA between September 26, 2005 and January 10, 2006.

47. By continuing to practice law while administratively suspended by the Tennessee Supreme Court for failure to obtain mandatory CLE, and failure to pay his annual registration fee, by failing to cure his registration fee deficiency after being given certified mail notice on June 27, 2005, and by failing to inform his clients, the Immigration Courts, the BIA, and the Sixth Circuit of his multiple suspensions between September 26, 2005 and January 10, 2006, and between October 3 and October 15, 2005, respondent has violated RPC's 3.3(a), 3.4(c), 5.5(a) and 8.4(a)(c)(d)(g).

**COUNT NINE - - COMPLAINT OF CHIEF DEPUTY CLERK, US COURT OF
APPEALS, SIXTH CIRCUIT (FILE NO. 28986-9-JJ)**

48. Between 2004 and 2005, respondent filed 18 petitions for review of final decisions of the BIA at the Sixth Circuit on behalf of 18 clients, and as of March 7, 2006, according to the Sixth Circuit's Docket Sheets, all such petitions for review had been dismissed for want of prosecution because respondent failed to pay the filing fee, failed to file required forms, or to file his brief in many of these appeals in a timely fashion.

49. Before the 18 petitions included within this complaint for review were dismissed by the Sixth Circuit, court personnel phoned respondent and gave him final opportunities to cure any procedural defects in these cases. Although respondent claimed that he allowed these petitions for review to be dismissed for "strategic" reasons, he did not have any correspondence from any of these former clients wherein they agreed that their appeals would be dismissed for such strategic reasons.

50. On December 6, 2005, Patrick Dinan, Administrative Services Manager for the Sixth Circuit advised respondent by correspondence in the two Bah v. Gonzales cases which respondent had filed, that respondent's MATCU escrow account checks of \$250 in filing fees in each case, were returned due to insufficient funds. Mr. Dinan also informed respondent that he was required to pay the \$45 penalty on each check, to make these checks good by certified check or money order by December 23, 2005, and that henceforth, respondent must make all future payments by certified check or by money order. Prior to or at the time of issuing the two MATCU escrow account checks to the Sixth Circuit in the total amount of \$500 in these two Bah v. Gonzales, cases, respondent did not deposit \$500 within his MATCU escrow account on behalf of these plaintiffs.

51. Respondent sent three additional MATCU escrow account checks for filing fees, along with three additional petitions for review to the Sixth Circuit as late as March 2, 2006, but respondent did not deliver to the Clerk's office of the Sixth Circuit by December 23, 2005 money orders or certified checks (with a \$45 penalty added in each case) in the two Bah v. Gonzales cases, as he was directed to do by Mr. Dinan. Respondent did receive the December 6, 2005 correspondence from Mr. Dinan, and he temporarily cured the procedural defects in the three petitions for review he filed on March 2, 2006 (Lopez-Vasquez, Jabbie and Camara) by paying the filing fees in these three cases by money order or certified check by March 15, 2006.

52. The petition for review in Lopez-Vasquez was dismissed by the Sixth Circuit on June 3, 2006 for lack of jurisdiction, the petition in Jabbie was dismissed on August 3, 2006 for want of prosecution, and the petition in Camara was dismissed on July 6, 2006 for respondent's failure to file a brief - - despite being contacted one final time by phone by court personnel on June 30, 2006 prior to the Camara dismissal.

53. Respondent utilized an attorney escrow account at MATCU for several years until April of 2006 where he either knew or should have known that this financial institution was not approved by this Board for maintenance of attorney escrow accounts since MATCU did not provide overdraft notification on such accounts to the Board, as is required by Tenn. R. Sup. Ct. 9, § 29.1B. Consequently, the Board received no notice from the institutions of any of respondent's MATCU escrow account overdrafts as referenced in the petitions for discipline.

54. By agreeing to file and accepting fees to file petitions for review with the Sixth Circuit in these 18 immigration cases which respondent acknowledged at hearing were not meritorious, or which were frivolous, only to delay or stay final orders of deportation, respondent

improperly accepted frivolous matters, and charged unreasonable fees in such cases, and engaged in conduct designed to delay or burden the Department of Homeland Security, all in violation of RPC's 1.5(a), 3.1, 4.4(a), and 8.4(a)(d). By failing to ensure there were proper deposits from clients in escrow before issuing escrow checks to courts for filing fees, and by using a financial institution for his escrow account which was not approved under the overdraft notification program, respondent has violated RPC's 1.15(a)(b), 3.4(c) and 8.4(a)(d) and Tenn. R. Sup. Ct. 9, § 29.1(A)(1). By knowingly failing to pay filing fees, to file briefs, or to comply with the Federal Rules of Appellate Procedure and with the Sixth Circuit's rules and directives, respondent has knowingly refused to comply with the rules of a tribunal imposing obligations upon him, in violation of RPC's 3.4(c) and 8.4(a)(d).

COUNT TEN - - COMPLAINT OF ISATA JALLOH BY RONALD S. SALOMON, ESQ.

55. Respondent accepted representation of complainant, Isata Jalloh, on or about August 14, 2002, and represented this complainant at evidentiary hearing on her asylum application before the Immigration Judge on October 27, 2002. This complainant had undergone female genital mutilation (FGM) in her home country of Sierra Leone as a young female, but respondent failed to inquire of her prior to hearing or question her before the Immigration Judge about this possible ground of past prosecution based on her female gender and being from that part of the world, even though respondent knew Sierra Leone is a country known for this practice. This complainant's claim for asylum was denied by the Immigration Judge on October 27, 2002 and respondent did file an appeal with the BIA on November 27, 2002.

56. In 2005, Ronald S. Salomon, newly-retained counsel for this complainant, wrote the respondent on November 11, 2005 and advised respondent that he had been retained to file

a Lozada motion seeking reopening in Ms. Jalloh's case based on respondent's alleged ineffective assistance of counsel for failing to inquire of the client and bring before the immigration court all avenues of possible relief in the asylum case (e.g., failure to bring the FGM claim to the court). In his February 23, 2006 reply letter to Mr. Salomon, respondent improperly stated that if Ms. Jalloh "would be filing a bar complaint with the state bar association," such fact "may affect [his] level of cooperation with your Lozada motion to reopen...", and that "[i]f no accompanying bar complaint is filed with the bar association, I will be free to cooperate with you in this motion. If a bar complaint is filed, I will have to consult my attorney for instructions on how to proceed."

57. Between May 3, and July 6, 2006, the Board forwarded three (3) notice letters to respondent and enclosed copies of Ms. Jalloh's complaint (dated May 3, May 31, and July 5, 2006), requesting respondent to respond to the complaint, advising him that his initial response was overdue, and that a further failure to respond would result in a petition being filed with the Tennessee Supreme Court seeking the temporary suspension of his law license. Respondent did not submit his initial response in this file until July 17, 2006, and only after receiving the third notice letter.

58. By failing to inquire about and investigate all possible avenues which could establish a basis for granting asylum for a female from Sierra Leone (such as FGM), where respondent was very familiar with conditions in this country, respondent neglected this client's legal matter in violation of DR's 1-102(A)(1)(5)(6) and 6-101(A)(3). By failing to timely respond to the Board's requests that he respond to the disciplinary complaint, respondent has violated RPC's 8.1(b) and 8.4(a)(d). By conditioning his truthfulness and level of cooperation in this former client's Lozada motion, on the client's agreement to not file a disciplinary complaint against him, respondent

has violated RPC's 3.4(c), 4.4(a), and 8.4(a)(d).

59. Respondent has received one prior disciplinary offense, a 2005 Private Reprimand as to six complaint files, for neglect, failing to move with reasonable promptness in his immigration law practice. This is an aggravating factor under ABA Standard 9.22(a).

60. Respondent's failure to refund unearned fees as he has promised, either in a timely fashion, or at all, is evidence of a selfish motive, a second aggravating factor under ABA Standard 9.22(b).

61. Respondent has engaged in a pattern of neglect and dilatory conduct in all of these petitions and he has committed multiple offenses, third and fourth aggravating factors under ABA Standard 9.22(c) and (d).

62. Respondent has refused to acknowledge the wrongful nature of his conduct and his immigration law clients are vulnerable victims, fifth and sixth aggravating circumstances under ABA Standard 9.22(g) and (h).

63. Respondent has been indifferent to making restitution to his former clients, a seventh aggravating circumstance pursuant to ABA Standard 9.22(j).

II.

CONCLUSIONS OF LAW

64. The Panel finds that respondent has violated the following disciplinary rules:

- (a) DR 1-102(A)(1)(4)(5)(6) and RPC 8.4(a)(c)(d)(g)
- (b) DR 2-106(A) and RPC 1.5(a)
- (c) DR 6-101(A)(3) and RPC 1.3
- (d) DR 7-101(A)(2)(3) and RPC 1.4(a)(b)

- (e) DR 9-102(A)(B) and RPC 1.15(a)(b)
- (f) RPC 1.16(d)(1)(2)(4)(5)
- (g) DR 7-102(A)(3)(5) and RPC 3.3(a)
- (h) RPC 1.2(a)
- (i) RPC 3.4(c)
- (j) RPC 3.4(c)
- (k) RPC 4.4(a)
- (l) RPC 5.5(a)
- (m) RPC 1.1
- (n) Tenn. R. Sup. Ct. 9, § 29.1(A)(1)

III.

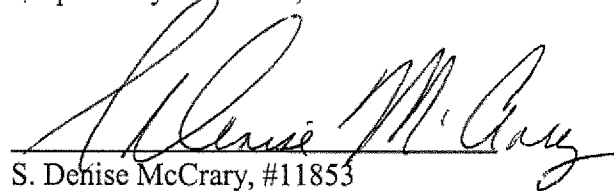
JUDGMENT

Based on the foregoing facts (including aggravating factors), and the established violations of ethical authorities, the Panel finds that the above enumerated facts, including aggravating factors, as well as the established violations of ethical authorities (most of which were admitted by respondent), justifies a suspension of respondent's license from the practice of law for a period of one (1) year. The Panel further finds that respondent's reinstatement should be conditioned upon the filing of a Petition for Reinstatement under Rule 9, § 19 in full compliance with the requirements of both a reinstatement committee and the Tennessee Supreme Court. The Panel further finds that respondent should be ordered to pay all of the Board's costs in this matter pursuant to Rule 9, § 24.3. Lastly, the Panel finds that respondent should be ordered to make restitution of unearned fees and costs in the following amounts, as a conditioned prerequisite to his

ability to file any Petition for Reinstatement: i) Moumini Bah (\$710); (ii) Fowzia Mohamed (\$810); and (iii) Amadou Tidjani Bah (\$3,360).

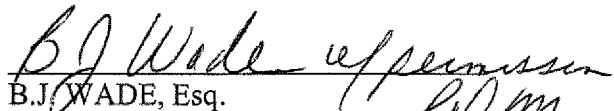
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Hearing Panel this 2nd day of August, 2007.

Respectfully submitted,

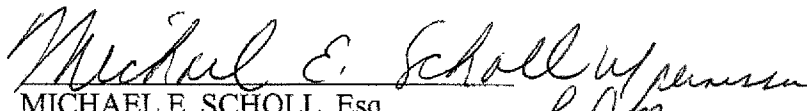


S. Denise McCrary, #11853
Panel Chairperson
6750 Poplar Avenue, Suite 517
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APPROVED:



B.J. WADE, Esq.
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Memphis, TN 38103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was provided to Jesse Joseph, Disciplinary Counsel, Board of Professional Responsibility, 1101 Kermit Drive, Suite 730, Nashville, TN 37217; and Timothy Price, Attorney for Respondent, 239 Adams Avenue, Memphis, Tennessee, 38103, via U.S. Mail, this 2nd day of August, 2007.

