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

**IN RE: STEVEN EDWARD SAMS,**
**BPR No. 022560, Respondent,**
**an Attorney Formerly**
**Licensed to Practice**
**Law in Tennessee**
**(Knox County)**

**DOCKET NO. 2021-3196-2-AJ**

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# JUDGMENT

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This matter came before a Hearing Panel consisting of Michael J. King (chair), Stephen Marcum and Lisa Hall. The Board of Professional Responsibility (the "Board") was represented by Andrew Campbell. The Respondent, Steven Edward Sams (hereinafter "Respondent" or "Sams") was initially represented by Danny Garland. On December 1, 2022, Mr. Garland was permitted to withdraw as counsel and Respondent elected to move forward with the hearing *pro se*.

A final hearing commenced on December 5, 2022 and continued through December 6, 2022. Mr. Sams did not appear at the hearing. At the request of the Hearing Panel, the Parties were asked to submit proposed findings of fact and conclusions of law. The Board submitted its proposed findings of fact and conclusions of law; Respondent failed to make any submissions.

## I. ISSUE BEFORE THE PANEL

The sole issue before the Panel is whether Respondent's activities in assisting individuals with immigration issues constitutes the unauthorized practice of law. The Board alleges Respondent's conduct violated Rules of Professional Conduct 3.4(c), 5.5(a)-(b), and 8.4(a)-(d) and (g). The burden of proof is on the Board to prove, by a preponderance of the evidence, that

Respondent violated the disciplinary rules. See *Walwyn v. Board of Professional Responsibility*, 481 S.W.3d 151, 169 (Tenn. 2015). As set forth below, the Board has met its burden.

## I. FINDINGS OF FACT.

### A. Respondent's Prior Disbarments.

1. On September 12, 2013, the Supreme Court of Tennessee entered an Order of Temporary Suspension against Respondent Sams for failing to respond to the Board concerning a complaint of misconduct. (Hearing Ex. 3.)

2. On November 26, 2014, the Supreme Court entered an Order of Enforcement, disbarring Respondent Sams under Tenn. Sup. Ct. R. 9, § 4.1 (2006). (Hearing Ex. 4.) As demonstrated by the underlying Judgment of the Hearing Panel (Hearing Ex. 6) pertaining to that first disbarment, Mr. Sams was not present for the disciplinary hearing.

3. On August 5, 2016, the Supreme Court entered an Order of Enforcement, again disbarring Respondent Sams pursuant to Tenn. Sup. Ct. R. 9, § 12.1. (Hearing Ex. 5.) Mr. Sams neither responded to the Petition for Discipline, nor appeared at the disciplinary hearing, in that matter. (Hearing Ex. 7.)

4. Respondent Sams has never sought, nor been granted, reinstatement. (Hearing Ex. 5 at p. 1. *See also* Petition for Discipline at ¶ 4; Answer at ¶ 4.) Accordingly, by operation of these Orders, Respondent Sams could not lawfully practice law, or hold himself out as an attorney, since September 12, 2013.

5. In addition, on March 20, 2015, Respondent Sams was suspended by the federal Board of Immigration Appeals ("BIA") from the practice of law before the BIA, the federal Immigration Courts, and the Department of Homeland Security. (Hearing Ex. 11.)

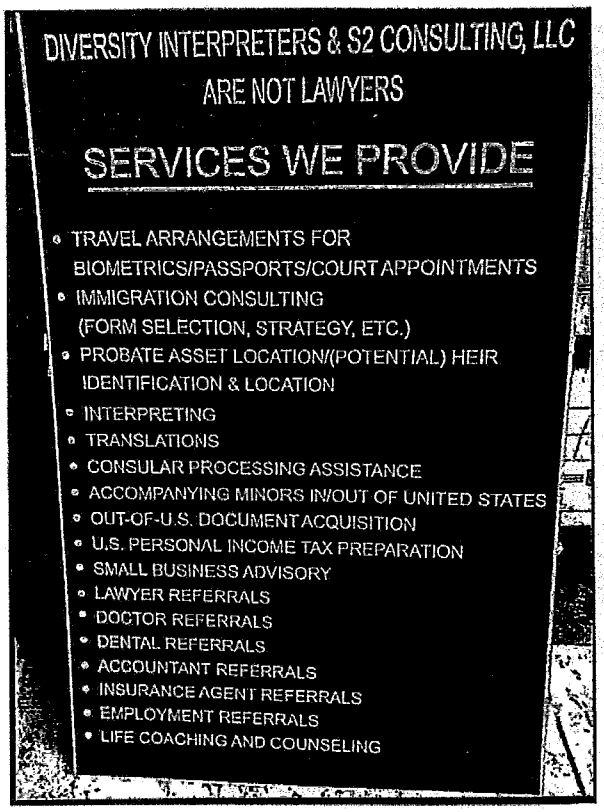
6. On April 14, 2015, the BIA entered a Final Order of Discipline (Hearing Ex. 12) which—pursuant to 8 C.F.R. § 1003.105 (2013)—disbarred Respondent Sams from the practice

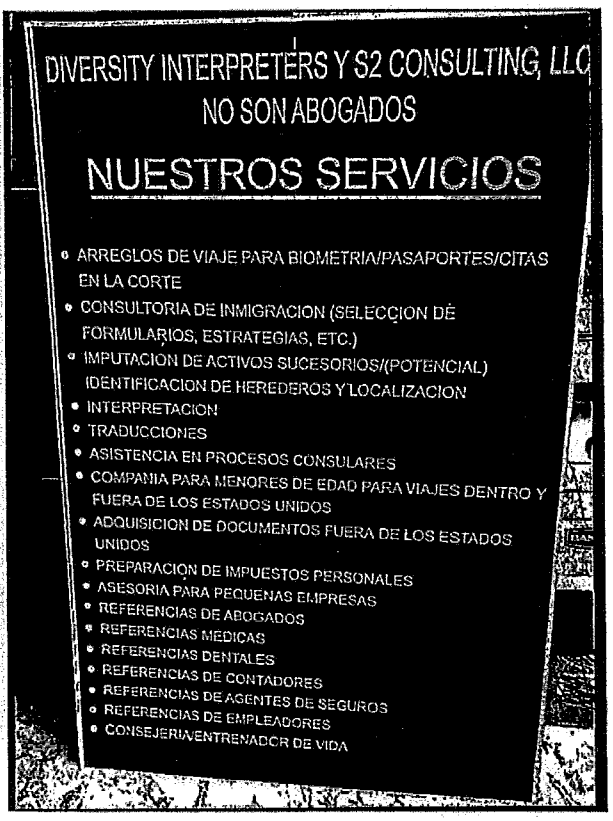
of law before the BIA, the federal Immigration Courts, and the Department of Homeland Security. The Final Order of Discipline noted that Respondent Sams failed to file an answer in response to the BIA's Notice of Intent to Discipline.

### B. Respondent's Self-Described Immigration Work

7. On May 17, 2013, roughly four months prior to his initial suspension in Tennessee, Respondent Sams filed Articles of Organization of S2 Consulting, LLC, a single-member Limited Liability Company. (Hearing Ex. 8.)

8. As reflected on certain signage (in both English and Spanish) reproduced here, S2 Consulting, LLC, has provided—among other things—"IMMIGRATION CONSULTING" services, which include "FORM SELECTION" and "STRATEGY." (Hearing Ex's. 9 and 10.[1])




[1] These photos were tendered to the Hearing Panel by Respondent's former counsel as part of Respondent's Exhibit List.

9. In response to the Petition for Discipline, Respondent Sams asserts that he "performs work and receives money under his business operations, part of which are authorized under 8 C.F.R. 1001.1(k) as a non-attorney immigration consultant." (Answer (filed 10/15/21) at ¶ 10. *See also id.* at ¶ 12 (averring that he provides "services permitted under 8 C.F.R. 1001.1(k) and other [federal] regulations").)

**C. Testimony of Catherine M. O'Connell**
**(Hearing Transcript Vol. 1, pp. 32-66)**

10. The Hearing Panel received—via Zoom videoconference—testimony from Catherine M. O'Connell. Ms. O'Connell currently is Associate General Counsel for the U.S. Department of Justice, Executive Office for Immigration Review (EOIR), Office of the General Counsel, and has held that position for approximately 8 months. (Hearing Transcript, Vol. 1, at 32, 34, and 36.)

11. Prior to that, Ms. O'Connell was Disciplinary Counsel for U.S. Citizenship and Immigration Services (USCIS).[2] (*Id.* at 34.)

12. The EOIR handles removal cases of non-citizens in immigration court proceedings, and before the Board of Immigration Appeals. (*Id.* at 33.)

13. Similarly, USCIS oversees lawful immigration to the United States and naturalization of new American citizens. Specifically, USCIS adjudicates requests for immigration benefits, such as petitions for relatives, employment petitions, asylum and refugee applications, etc. (*Id.* at 35.)

14. In her current position with EOIR, Ms. O'Connell is responsible for investigating alleged misconduct by immigration practitioners (i.e., private attorneys and representatives) before

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[2] USCIS is an agency of the Department of Homeland Security ("DHS").

the immigration courts and the Board of Immigration Appeals to determine whether the practitioners have engaged in criminal, unethical, or unprofessional conduct, or in frivolous behavior. As part of her duties, Ms. O'Connell also provides assistance to regulatory agencies throughout the United States (e.g., state bars) with their investigations into allegations of misconduct by attorneys. (*Id.* at 33-34.)

15. In her former position with USCIS, Ms. O'Connell's responsibilities were nearly identical to those with the EOIR—i.e., investigating alleged criminal and fraudulent conduct by practitioners and allegations relating to the unauthorized practice of law. (*Id.* at 35.)

16. By virtue of her current and former employment, Ms. O'Connell is very familiar with the regulations pertaining to practice before the federal immigration courts, including 8 C.F.R. 1001.1(k), and deals with these regulations on a daily basis. (*Id.* at 41.)

17. There are 60 immigration courts across the country, including one in Memphis, Tennessee, and they are governed by the federal regulations found at 8 C.F.R. Decisions rendered by the immigration courts are subject to appeal before the Board of Immigration Appeals. (*Id.* at 36-37.)

18. An individual must meet the requirements of 8 C.F.R. 292.1(a)(1)-(6) for eligibility to appear before DHS and 8 C.F.R. 1292.1(a)(1)-(5) for eligibility to appear before the immigration courts and the Board. (*Id.* at 38-39.)

19. By virtue of his March 2015 suspension and his April 2015 disbarment by the Board of Immigration Appeals, Respondent Sams is not eligible to practice before the Board of Immigration Appeals, the immigration courts, and DHS. (*Id.* at 39-40.)

20. 8 C.F.R. 1001.1(k) governs EOIR. (*Id.* at 42.)

21. From November 28, 2009, until its amendment on November 14, 2022, 8 C.F.R. 1001.1(k) read as follows:

> The term preparation, constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed Service forms by one whose remuneration, if any, is nominal and who does not hold himself out as qualified in legal matters or in immigration and naturalization procedure.

(*Id.* at 42.)

22. DHS has a similar regulation, which is found at 8 C.F.R. § 1.2 and which reads, in part:

> Preparation, constituting practice, means the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers, but does not include the lawful functions of a notary public or service consisting solely of assistance in the completion of blank spaces on printed DHS forms, by one whose remuneration, if any, is nominal and who does not hold himself or herself out as qualified in legal matters or in immigration and naturalization procedure.

(*Id.* at 43.)

23. Both of these regulations refer to "practice." The EOIR definition of "practice" is found at 8 C.F.R. 1001.1(i), which reads:

> The term practice means the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with DHS, or any immigration judge, or the Board.

(*Id.* at 43.)

24. The DHS definition of "practice" is included in 8 C.F.R. § 1.2, which reads:

> Practice means the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with DHS.

(*Id.* at 43.)

25. To engage in "practice," an individual must meet the requirements for eligibility set forth in 8 CFR 292.1 (for DHS) and 1292.1 (for the immigration courts).

26. While Sections 1001.1(i) and 1.2 define "practice" to include the "preparation" of

any brief, document, paper, application, or petition on behalf of another person, Section 1001.1(k) and Section 1.2 also allow non-practitioners to assist in the completion of forms submitted to the EOIR and DHS. (*Id.* at 44.)

27. However, the distinction lies in what the non-practitioner cannot do. The non-practitioner only may assist another person with filling in the blanks of a form. The non-practitioner is not permitted to do anything beyond that—i.e., is not permitted to engage in any activity requiring analysis, discretion, or judgment. (*Id.* at 44-45, 47-48, 56-57.)

28. The EOIR and the USCIS have published fact sheets, self-help guides, and other materials which highlight this point. On October 2, 2009, the EOIR revised a "Fact Sheet" entitled "Who Can Represent Aliens in Immigration Proceedings." (Hearing Ex. 13.) This Fact Sheet stated in pertinent part:

> Federal regulations (8 C.F.R. 1292.1) specify who can represent aliens in immigration proceedings. The sections that follow below explain, by category, who can represent aliens in immigration proceedings—attorneys, recognized organizations, accredited representatives, other qualified representatives, and free legal services providers. **No one else can represent aliens in immigration proceedings.**
>
> **"Notarios," visa consultants, and immigration consultants cannot represent aliens in immigration proceedings.** [Boldface in original.]

(Hearing Transcript, Vol. 1, at 47-48.)

29. In a self-help guide entitled "Are You a Victim of Fraud?" (Hearing Ex. 14), updated in January of 2022, the EOIR advises the public:

> - **Only two groups of people may provide legal advice and services on your immigration case:**
>
>  (1) Attorneys and
>
>  (2) Accredited representatives of non-profit religious, charitable, or social service organizations established in the U.S. and recognized by the Department of Justice (DOJ).
>
>  . . .

- **Immigration consultants, travel agents, and immigration assistance providers are not attorneys and cannot give legal advice or provide legal services.** This means that they:

  - CANNOT tell you which immigration forms to use or what answers to put on the forms [and]

  - CANNOT keep your original documents. . . .

[Boldface in original.]

(Hearing Transcript, Vol. 1, at 49-50.)

30. As stated in this self-help guide, the selection of which immigration form to use constitutes "practice" as defined in 8 CFR 292.1 and 1292.1. (*Id.* at 48-50.)

31. While this self-help guide was updated in January of 2022, these statements are consistent with 8 C.F.R. 1001.1(k) and 1.2 and have been an accurate statement of law since Mr. Sams formed S2 Consulting, LLC, in 2014. (*Id.* at 49.)

32. In another self-help guide entitled "Do You Need a Lawyer or Accredited Representative?" (Hearing Ex. 15), also updated in January of 2022, the EOIR advises the public:

> The **ONLY** people who can represent you in immigration court are lawyer and accredited representatives. Notarios, document preparers, immigration consultants, and travel agents are NOT allowed to give you ANY legal advice.
>
> . . .
>
> What is a Lawyer?
>
> > A lawyer is generally someone who has a license to practice law before *the immigration courts and other courts of law* in the United States. A lawyer helps you fill out immigration applications, such as an application for asylum. A lawyer may also help collect evidence, prepare you to testify in court, and present you case to the immigration judge for you.

[Boldface, underlining, and italics in original.]

(Hearing Transcript, Vol. 1, at 48-49.)

33. These statements also are consistent with 8 C.F.R. 1001.1(k) and 1.2, and have been an accurate statement of law since Mr. Sams formed S2 Consulting, LLC, in 2014. (*Id.* at 49.)

34. Lastly, on its webpage, the USCIS advises litigants:

> You can file USCIS forms yourself, but many people choose to have help. Someone who is not an authorized immigration service provider is only allowed to:
>
> - Read you the form;
> - Translate, either verbally or in writing, information from your native language to English or English to your native language; and
> - Write down information that you provide to complete the form.
>
> Anyone is allowed to give you this type of limited help, and may charge for it. This person should only charge you a small fee and should not claim to have special knowledge of immigration law and procedure.
>
> If you are not sure what immigration benefit to apply for, or which USCIS forms to submit, then you may need immigration legal advice from an authorized service provider. Only authorized immigration service providers can help you beyond basic preparation or translation of forms
>
> . . .
>
> Authorized immigration service providers are allowed to:
>
> - Give you advice about which documents to submit;
> - Explain immigration options you may have; and
> - Communicate with USCIS about your case.
>
> . . .
>
> **WARNING** "Notarios," notary publics, immigration consultants and businesses cannot give you immigration legal advice unless they are authorized service providers.
>
> (Hearing Ex. 16 at pp. 1-3 (boldface and underlining in original).)'

(Hearing Transcript, Vol. 1, at 50-51.)

35. These statements also are consistent with 8 C.F.R. 1001.1(k) and Section 1.2 going back to 2014. (*Id.* at 51.)

36. Since his disbarments in Tennessee and with the Board of Immigration Appeals, Respondent Sams has not been an "authorized immigration service provider" as described by the

USCIS. (*Id.* at 39-40, 62-64.)

37. As an "immigration consultant," Respondent Sams may not make any determination as to which form(s) a third-party should use, and he may not give a third-party any advice as to which form/forms is/are appropriate for that party's circumstances. (*Id.* at 49-50, 52.)

38. Further, a person seeking legal residency in the United States may have more than one pathway to achieve that goal. However, Respondent Sams—as an "immigration consultant"—is prohibited from discussing those options, or providing advice regarding those options, with such a person, because such discussions require an analysis of the facts of such person's circumstances and the exercise of legal judgment to advise about the best course of action. (*Id.* at 52-53, 56-57.)

39. Accordingly, Respondent Sams is not permitted to provide the "immigration consulting" services that he advertises on his signage (Hearing Ex's. 9 and 10)—i.e., "FORM SELECTION" and "STRATEGY"—because that constitutes "practicing" as defined by 8 C.F.R. 1001.1(i) and 8 C.F.R. 1.2. Providing "strategy" would require a "study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities," which is defined to be "practice" by 8 C.F.R. §§ 1.2, 1001.1(k). (*Id.* at 54-55.)

40. Similarly, the act of "form selection" requires the application of professional judgment to a given set of circumstances, which also constitutes "practice" under 8 C.F.R. §§ 1.2, 1001.1(k). (*Id.* at 57.)

41. The USCIS webpage (Hearing Ex. 16) states that non-practitioners may charge "a small fee." Sections 1.2 and 1001.1(k) say something similar—i.e., that any "remuneration" of a non-practitioner must be "nominal." (Hearing Transcript, Vol. 1, at 51.)

### C. File No. 65692-2-KB – Complainant – Anonymous (Luis Antonio Sapil-Tumacaj) (Testimony by Deposition – Hearing Ex. 1)

42. Luis Antonio Sapil-Tumacaj ("Sapil") first met Respondent Sams in 2012, while

Respondent still was a licensed attorney. (Hearing Ex. 1 at p. 8.) Mr. Sapil was referred by a friend to Respondent as an immigration lawyer, and Mr. Sapil scheduled an appointment to discuss the necessary steps to take in order to obtain legal residency. (*Id.* at pp. 8-9.)

43. At that first meeting, Respondent Sams advised Mr. Sapil to marry his then-girlfriend and wait three years before starting the formal immigration process. (*Id.* at pp. 9-11.)

44. During that meeting, Respondent Sams hand-wrote notes, which outlined Mr. Sapil's two pathways to legal residency; one pathway via "spousal sponsorship" and one pathway via DACA—i.e., "Deferred Action for Childhood Arrivals." (*Id.* at pp. 18-20; *id.*, Dep. Ex. 1 at p. 1.)

45. After Mr. Sapil married his girlfriend in 2014, he met with Respondent Sams in 2016 or 2017. (*Id.* at pp. 7, 11.) Mr. Sapil and his wife, Blanca Alicia Quiej Sacayon,[3] met with Respondent to start the process for Mr. Sapil of attaining legal residency. (*Id.* at p. 13 and 27.)

46. At this second meeting, Respondent Sams did not tell Mr. Sapil that he had been disbarred, that he could not practice law, and that he could not represent clients before the immigration court. (*Id.* at pp. 13-14.)

47. At this meeting, Respondent Sams gave Mr. Sapil additional hand-written notes reciting the steps that must be taken, what forms needed to be filled out, and what Respondent would charge Mr. Sapil. (*Id.* at pp. 13, 24-31; *id.*, Dep. Ex. 1 at pp. 3-6.)

48. As reflected in these notes, Respondent Sams discussed various "options" with Mr. Sapil during this meeting. (*Id.* at pp. 25-26; *id.*, Dep. Ex. 1 at pp. 5.)

49. Specifically, Respondent Sams laid out four "steps" toward obtaining legal residency for Mr. Sapil: (a) the filing of a Form I-130[4] to initiate "spousal sponsorship" by his

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[3] *See id.* at pp. 7, 20, and 35.

[4] A Form I-130 is used to establish that a valid family relationship exists between a U.S.

wife, (b) a filing with the National Visa Center approximately 3-9 months after submission of the I-130, (c) the filing of a Form I-601A[5] seeking "forgiveness" for entering the country illegally, and (d) consulate processing in Guatemala. (*Id.* at pp. 29-31; *id.*, Dep. Ex. 1 at pp. 1, 3-6.)

50. For his services, Respondent advised Mr. Sapil that he would charge $375/hour, and he estimated that the work would take approximately 18-20 hours. (*Id.* at pp. 26, 29-31; *id.*, Dep. Ex. 1 at pp. 1, 3. *See also id.* at p. 28; *id.*, Dep. Ex. 1 at p. 6 (estimating "Honorarios legales" to be $5,625).)

51. This is not a "nominal" fee under 8 C.F.R. §§ 1.2, 1001.1(k). (Hearing Transcript, Vol. 1, at 51.)

52. Mr. Sapil met with Respondent Sams approximately three times between 2016/2017 and February of 2019. (*Id.* at p. 14.) On January 7, 2016, Mr. Sapil paid Mr. Sams—through S2 Consulting—$200. (*Id.* at p. 24; *id.*, Dep. Ex. 1 at p. 3.) On September 11, 2017, Mr. Sapil paid Mr. Sams (through S2 Consulting) $1,000. (*Id.* at p. 24; *id.*, Dep. Ex. 1 at p. 3.)

53. At the request of Mr. Sapil, Respondent Sams sent a receipt to Mr. Sapil dated June 16, 2020, reciting how much money he had paid to Respondent for each "paso" (or "step") in the process, as well as how much additional money Mr. Sapil would have to pay going forward.

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citizen (or legitimate green card holder) and a person seeking a green card. The submission of a Form I-130 to USCIS is the first step in the family-based green card process. (*See* https://www.uscis.gov/forms/explore-my-options/us-citizen-petition-for-an-immediate-relative-to-become-a-lawful-permanent-resident; *see also* Hearing Transcript, Vol. 2, at 121.)

[5] Formally called an "Application for Waiver of Grounds of Inadmissibility," an I-601 Waiver is a form used by certain immigrant applicants when applying for a visa, an adjustment of status, or an immigration benefit that they are not eligible for. Ineligible applicants submit a Form I-601 to U.S. Citizenship and Immigration Services (USCIS) to request that their ground(s) of inadmissibility be waived. There are many grounds on which an applicant can be found inadmissible, and the question of whether an applicant is eligible for a waiver depends on the benefit that they are applying for and the reason that they are inadmissible. (*See* https://www.uscis.gov/sites/default/files/document/forms/i-601instr-pc.pdf; *see also* Hearing Transcript, Vol. 2, at 92-93.)

(*Id.* at pp. 35-36; *id.*, Dep. Ex. 2.)

54. As reflected on this receipt, Mr. Sapil paid $2,250 as "pago al abogado"[6] to Mr. Sams for the preparation and submission of the Form I-130, and an additional $500 for the preparation of the Form I-601A. (*Id.* at p. 38; *id.*, Dep. Ex. 2.)

55. All of Mr. Sapil's payments to Respondent Sams were in cash. (*Id.* at pp. 24-25, 32.)

56. At this time, Mr. Sapil does not enjoy legal residency in the United States, but his I-601A application—as prepared by his current counsel, William Wheatley—is pending. Had the I-601A been filed earlier, Mr. Sapil's legal residency most likely would have been secured by this time. (Hearing Transcript, Vol. 2, at 92-94.)

**D. File No. 61231-2-KB – Informant – William L. Wheatley, Esq.**
**(Llenci Soler-Guerrero)**
**(Testimony by Deposition – Hearing Ex. 2)**

57. Llenci Soler-Guerrero wanted to seek asylum for herself and her daughter, and was referred to Respondent Sams by her sister, Nelci, in November or December of 2016. (Hearing Ex. 2 at pp. 11-12; *id.*, Dep. Ex. 1 at ¶¶ 3 and 5.)

58. Ms. Soler-Guerrero had a telephonic hearing with the immigration court scheduled for December 12, 2016, and she set a meeting with Respondent Sams for December 11, 2016. (*Id.* at pp. 13 and 15.)

59. When she met with Respondent Sams, he did not tell her that he was not an attorney. Respondent Sams also did not disclose that he had been disbarred and could not practice law. (*Id.* at pp. 13 and 16-17.)

60. During the course of her relationship with Respondent Sams, she believed he was

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6 "Payment to lawyer."

an attorney because she only met with Respondent Sams. She would not have hired him if she had known he was not a lawyer. (*Id.* at p. 14.)

61. When Ms. Soler-Guerrero met with Respondent Sams, he told her that he would file an application for asylum for her and for her daughter, Yenci. (*Id.* at p. 12; *id.*, Dep. Ex. 1 at ¶ 5.) Respondent Sams also told Ms. Soler-Guerrero that he would ask for more time from the immigration court. (*Id.* at p. 13.)

62. Later, Respondent Sams—through an interpreter—gave Ms. Soler-Guerrero an address to appear at on December 12, 2016. When she arrived at the address, she sat in a room with Respondent Sams until the judge of the immigration court called. When the judge called, she was taken to another office with another lawyer whom she never met, and whose name she did not know. This unidentified lawyer spoke with the immigration judge over the phone. When the call ended, Ms. Soler-Guerrero was taken back to Respondent Sams and was told that her case had been put off for two years. (*Id.* at p. 15; *id.*, Dep. Ex. 1 at ¶¶ 6-10.)

63. Ms. Soler-Guerrero never received a bill from this unidentified attorney and never paid him any money. (*Id.* at pp.15-16.)

64. When Ms. Soler-Guerrero asked for an explanation as to why this other lawyer spoke to the immigration court instead of Respondent, Mr. Sams stated only that he and this other lawyer were partners. (*Id.* at p. 16.)

65. In January of 2017, Respondent Sams—through an interpreter—again contacted Ms. Soler-Guerrero to have her come to his office to sign her application for asylum. (*Id.* at pp. 17-18; *id.*, Dep. Ex. 1 at ¶¶ 11-13; *id.*, Dep. Ex. 4.)

66. When she arrived at his office, Respondent Sams asked her some questions about her family's names and some questions about where she lived, but the application—which was in English—was never read to her in Spanish. (*Id.* at pp. 17 and 19; Dep. Ex. 1 at ¶¶ 13-14.)

67. Ms. Soler-Guerrero signed the application on behalf of herself and her daughter, Yenci. (*Id.* at pp. 17-18; *id.*, Dep. Ex. 4 at pp. 9-10.)

68. An attorney by the name of Daniel Slaughter is identified on the application as the attorney who prepared it. (*Id.* at p. 18; *id.*, Dep. Ex. 4 at p. 9.) However, the application was prepared by Respondent Sams. (*Id.* at p.18.)

69. Ms. Soler-Guerrero never spoke with Daniel Slaughter, did not pay him any money, and does not know who he is. (*Id.* at p. 18.)

70. Ms. Soler-Guerrero's asylum application is factually incorrect. It states that, during their journey to the United States, she and her daughter were held hostage in Mexico for 17 days by "coyotes" (i.e., human traffickers) until her family paid a ransom of $4,000 for each of them. (*Id.* at pp. 19-20; *id.*, Dep. Ex. 1 at ¶¶ 41-42.)

71. These facts related to Ms. Soler-Guerrero's sister, Nelci, and not to herself or her daughter. (*Id.* at p. 20; *id.*, Dep. Ex. 1 at ¶ 42.) However, because the application was not read to her when she signed it, Ms. Soler-Guerrero was unaware of its substantive context until February 1, 2019, when it was read to her for the first time. (*Id.* at p. 20; *id.*, Dep. Ex. 1 at ¶¶ 40-42.)

72. In addition, the application for asylum submitted for Ms. Soler-Guerrero and her daughter, Yenci, omits facts which should have been included. (*Id.* at p. 31; *id.*, Dep. Ex. 1 at ¶ 43.) Specifically, evidence exists to the effect that Ms. Soler-Guerrero's family had been targeted by a Honduran gang known as "Los Espinoza," and that several family members—including Ms. Soler-Guerrero's son, who had been shot by the gang—had been subjected to violence at the hands of Los Espinoza. (*Id.* at p. 31; Hearing Transcript, Vol. 2, at 85; *see also* Hearing Ex. 17 (Honduran police report dated 4/3/14, detailing violence committed against the Soler family).)

73. Such evidence is relevant to an asylum application, because persecution as a

member of a social group—such as a nuclear family—is a recognized basis under the law for granting an asylum request. (Hearing Transcript, Vol. 2, at 87-89.) Yet, this information was not included in the application for Ms. Soler-Guerrero and her daughter. (Hearing Ex. 2 at p. 31; Hearing Transcript, Vol. 2, at 90-91.)

74. On Saturday, December 8, 2018, Ms. Soler-Guerrero met again with Respondent Sams at his office. (Hearing Ex. 2 at p. 21; *id.*, Dep. Ex. 1 at ¶ 25.) Respondent sent Ms. Soler-Guerrero to another office, where she met another attorney named Darrell Sproles. (*Id.* at p. 21; *id.*, Dep. Ex. 1 at ¶¶ 25-26.)

75. This was the first, and only, time she met with Mr. Sproles. (*Id.* at pp. 21-22; *id.*, Dep. Ex. 1 at ¶ 32; *id.*, Dep. Ex. 2 at ¶ 6.) Prior to her meeting with him on December 8, 2018, Ms. Soler-Guerrero had never heard of Darrell Sproles, and she never paid Mr. Sproles any money at any time. (*Id.* at pp. 26-27.)

76. During this meeting, Mr. Sproles told Ms. Soler-Guerrero that she would have to pay him $1,000 to go to Memphis for her upcoming immigration court hearing on December 12, 2018, and that—whether she went to court or not—she would be deported. Mr. Sproles told Ms. Soler-Guerrero that she should save the $1,000 to hire a guardian for her daughter while her daughter's immigration status was resolved. He stated that for Ms. Soler-Guerrero to get her own immigration papers fixed, she would have to marry an American citizen. (*Id.* at pp. 25-26; *id.*, Dep. Ex. 1 at ¶¶ 24-32.)

77. Based on this advice, Ms. Soler-Guerrero did not attend her immigration hearing on December 12, 2018. (*Id.* at p. 26; *id.*, Dep. Ex. 1 at ¶ 33.)

78. Ms. Soler-Guerrero's immigration case is closed and cannot be reopened, and she currently is subject to deportation. (*Id.* at pp. 29-30; Hearing Transcript, Vol. 2, at 92.)

79. Apart from the unidentified attorney at the December 2016 telephonic court

hearing, and her single meeting with Mr. Sproles, Ms. Soler-Guerrero spoke only with Respondent Sams regarding her immigration case. (Hearing Ex. 2 at p. 21; *id.*, Dep. Ex.1 at ¶¶ 22-23, and 26.)

80. In fact, Respondent Sams was the individual who notified Ms. Soler-Guerrero that he had received her work authorization/work permit from the federal government. (*Id.* at pp. 23-24.)[7]

81. Ms. Soler-Guerrero paid Respondent at least $1,375 in cash for his service. (Hearing Ex. 2 at pp. 27-28; *id.*, Dep. Ex. 6.)

**E. File No. 61235-2-KB – Informant – William L. Wheatley, Esq.**
**(Ronald Chamale-Ponce)**
**(Testimony by Affidavit – Hearing Ex. 20)**

82. Ronald Chamale-Ponce entered the United States on April 8, 2014, as an unaccompanied minor. (Hearing Transcript, Vol. 2, at 96; *see also* Hearing Ex. 19 (I-589, Application for Asylum) at Box 18.)

83. After he entered the country, his aunt—Anna Ponce—hired Respondent Sams to represent him on his immigration case. (Hearing Ex. 20 at ¶ 3.)

84. Mr. Chamale-Ponce paid Mr. Sams for these services from 2015 to August 31, 2018. (*Id.* at ¶¶ 4, 20, and 22.) While Mr. Chamale-Ponce was in school, he periodically paid Respondent $100 when he was able to do so. When he left school, Mr. Chamale-Ponce paid Mr. Sams approximately $200 twice a month. (*Id.* at ¶ 5.)[8]

85. When Respondent Sams was first hired, Mr. Chamale-Ponce believed him to be an

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[7] Text messages from Ms. Soler-Guerrero's phone, identify Respondent Sams as her "abogado" or lawyer. (Hearing Ex. 2 at p. 23.) That is the way she had Respondent's contact information stored on her phone. (*Id.*)

[8] While Mr. Chamale-Ponce has lost many of the receipts that memorialized these payments (Hearing Ex. 20 at ¶ 20), he did produce two receipts from August of 2018 in the aggregate amount of $550. (Hearing Ex. 20 at ¶ 20, Aff. Ex. 3.) The receipt dated August 20, 2018, reflects an outstanding balance of $2,125. (*Id.*)

attorney, and he held that belief until 2017 when he was informed by William Wheatley (his current attorney) that Mr. Sams was not a lawyer. (*Id.* at ¶¶ 6, 15.)

86. Since hiring Mr. Sams, Mr. Chamale-Ponce had three lawyers involved with his immigration case: Thomas Slaughter, Jason Hines, and Darrell Sproles. (*Id.* at ¶¶ 7-8, 17, and 18.)

87. To Mr. Wheatley's observation, this appears to be Respondent's "M-O"—i.e., holding himself out as an immigration lawyer, taking clients, taking their money, and then having another attorney actually file the paperwork due to the fact that Respondent himself has been disbarred. (Hearing Transcript, Vol. 2, at 105-06.)

88. Mr. Slaughter appeared at Mr. Chamale-Ponce's first immigration court hearing. Mr. Sams also was present at this hearing but sat in the back of the court room. Mr. Chamale-Ponce did not know that Mr. Slaughter was going to represent him in court at that hearing. (*Id.* at ¶ 8.)

89. In addition to appearing in court, Mr. Slaughter also filed a "Respondent's Pleading" with the immigration court in Mr. Chamale-Ponce's removal action. (*Id.* at ¶ 9; Hearing Ex. 18; Hearing Transcript, Vol. 2, at 98-101.) At paragraph 15 of the "Respondent's Pleading," Mr. Slaughter stated that he will pursue an application for asylum and seek a "SIJV." (Hearing Ex. 18 at ¶ 15.)

90. "SIJV" stands for "Special Immigrant Juvenile Visa," which Mr. Chamale-Ponce was qualified to receive. Under federal immigration law, children that have been victims of abuse, abandonment, or neglect may apply for special immigrant juvenile status. Because Mr. Chamale-Ponce entered the country as an unaccompanied minor, he was eligible to receive a SIJV and very likely would have received one as they are very rarely denied. If Mr. Chamale-Ponce had obtained an SIJV, his federal removal proceeding would have been terminated and it would have provided him with a pathway to legal residency and citizenship. (Hearing Transcript, Vol. 2, at 99-101.)

91. However, neither Respondent Sams nor Mr. Slaughter pursued at SIJV for Mr. Chamale-Ponce. (Hearing Ex. 20 at ¶ 10; Hearing Transcript, Vol. 2, at 102, 118.) And, once Mr. Chamale-Ponce turned 18 years old, his ability to seek an SIJV ended, and it cannot be revived. (Hearing Transcript, Vol. 2, at 103.)

92. However, if USCIS had received an application for a SIJV before Mr. Chamale-Ponce turned 18 years old, the application would have been timely filed and applicable to Mr. Chamale-Ponce even after his 18th birthday. (Hearing Transcript, Vol. 2, at 115-16.)

93. On March 9, 2016, Mr. Slaughter filed an application for asylum on behalf of Mr. Chamale-Ponce. (Hearing Ex. 19.) However, Mr. Chamale-Ponce never spoke with Mr. Slaughter about it; instead, he only spoke with Respondent Sams through Respondent's interpreter. (Hearing Ex. 20 at ¶ 11.)

94. Mr. Chamale-Ponce cannot read English, and the asylum application was never read to him in Spanish. (Hearing Ex. 20 at ¶ 11; *id.* at Sworn Attestation; Hearing Transcript, Vol. 2, at 107.) Instead, Respondent Sams instructed him to sign it. (Hearing Ex. 20 at ¶ 11.)

95. Asylum applications must be filed within one year of entering the country. Thus, Mr. Chamale-Ponce's application was filed too late, and he was no longer eligible to pursue asylum. (Hearing Transcript, Vol. 2, at 108.)

96. In 2017, Mr. Chamale-Ponce was charged with underage DUI in Sevier County, Tennessee. (Hearing Ex. 20 at ¶ 12.) Mr. Wheatley represented Mr. Chamale-Ponce on that charge and was able to obtain a pre-trial diversion (*Id.* at ¶ 13), which resulted in no criminal conviction on Mr. Chamale-Ponce's record. (Hearing Transcript, Vol. 2, at 112-13.)

97. However, after Mr. Chamale-Ponce was released from jail, he was placed in the custody of Immigration and Customs Enforcement ("ICE") and transported to La Salle, Louisiana, for a bond hearing at the immigration court in La Salle, where he was represented by Jason Hines.

(Hearing Ex. 20 at ¶¶ 16-17.)

98. Thereafter, in 2018, Mr. Chamale-Ponce had a third hearing in immigration court, at which he was represented by Darrell Sproles. (Hearing Ex. 20 at ¶ 18.) Mr. Sproles, however, appeared to know nothing about Mr. Chamale-Ponce's case. As a consequence, Mr. Chamale-Ponce asked the court for permission to speak on his own behalf. (*Id.* at ¶19.)

99. Currently, Mr. Chamale-Ponce is subject to an order of removal for failing to attend a court hearing in March of 2019, and his asylum application has been deemed abandoned. (Hearing Transcript, Vol. 2, at 94-95, 102.) However, Mr. Chamale-Ponce was unaware of the March 2019 court date. (*Id.* at 94.) When he first met with Mr. Wheatley on January 10, 2019, Mr. Chamale-Ponce made no mention of an upcoming court date in March. (Hearing Ex. 20 at ¶ 23; Hearing Transcript, Vol. 2, at 94.)

100. Mr. Chamale-Ponce missed a subsequent appointment with Mr. Wheatley set for February 5, 2019, and did not see him again until May of 2019. By that time, the immigration court had ordered Mr. Chamale-Ponce's removal *in absentia*. When Mr. Wheatley attempted—in May of 2019—to enter an appearance in the case, he learned of the missed court date and the removal order. (Hearing Transcript, Vol. 2, at 102, 114.)

101. At this time, Mr. Chamale-Ponce is foreclosed from ever residing in the United States legally. (Hearing Transcript, Vol. 2, at 103.)

**F. File No. 61227-2-KB – Informant – William L. Wheatley, Esq.**
**(David Santos Castillo-Rodriguez)**
**(Testimony by Affidavit – Hearing Ex. 21)**

102. David Castillo-Rodriguez and his wife, Bethany, hired Respondent Sams in June of 2016 to file immigration papers for him. Mr. Castillo-Rodriguez's aunt referred him to Respondent. (Hearing Ex. 21 at ¶¶ 3-4.)

103. When Mr. Castillo-Rodriguez and his wife met with Respondent, he believed Mr.

Sams to be a lawyer. Respondent, in fact, told Mr. Castillo-Rodriguez that he had many cases involving people from Sevierville. (Hearing Ex. 21 at ¶¶ 6-7.)

104. During the course of his engagement, Mr. Castillo-Rodriguez paid Respondent Sams approximately $2,525 for immigration services—including the filing of "forgiveness" papers[9] for entering the country illegally. (Hearing Ex. 21 at ¶ 9.)

105. Bethany Castillo is a U.S. citizen. (Hearing Transcript, Vol. 2, at 121.) Accordingly, Respondent Sams arranged to file—in July of 2016—a Form I-130[10] through attorney Thomas Slaughter, with Bethany Castillo as the petitioner on behalf of her husband. (Hearing Ex. 21 at ¶ 18; *id.*, Aff. Ex. 3; Hearing Transcript, Vol. 2, at 121-22.)

106. However, Mr. Castillo-Rodriguez never met or spoke with Thomas Slaughter and does not know who he is. (Hearing Ex. 21 at ¶¶ 8, 19.) Mr. Castillo-Rodriguez only discussed his immigration case with Respondent Sams. (*Id.* at ¶ 19.)

107. The I-130 petition was approved by USCIS in January of 2017. (Hearing Ex. 21 at Aff. Ex. 3.)

108. Notwithstanding the approval by USCIS, however, additional steps needed to be taken through the National Visa Center. (Hearing Transcript, Vol. 2, at 121-22.) Failure to take action with the National Visa Center can result in the I-130 petition being deemed abandoned. (*Id.*)

109. This happened with Mr. Castillo-Rodriguez. (Hearing Transcript, Vol. 2, at 122.) On March 28, 2018, the National Visa Center transmitted a letter to Bethany Castillo (Mr. Castillo-Rodriguez's spousal sponsor), which stated in part:

The Department of State's National Visa Center (NVC) advised you of the

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9 *See* fn. 5, *supra.*

10 *See* fn. 4, *supra.*

> necessary steps to prepare for an appointment to file a formal application for an immigrant visa. Our records indicate that to date you have not contacted the NVC in more than a year. If our records are in error . . ., or if you have not yet contacted NVC but still wish to pursue your immigrant visa application, **please follow the instructions below immediately**. Completion of these steps is mandatory for the filing of an application at the time of interview. **No visa can be issued unless these steps have been completed.**
>
> . . .
>
> To pursue your immigrant visa application and avoid termination of your registration, you must immediately notify the **NATIONAL VISA CENTER AT THE ADDRESS ON THE NEXT PAGE**. . . . If you do not request information on applying for your immigrant visa within one year of the date of this letter, your immigrant visa registration will be terminated.

(Hearing Ex. 21 at Aff. Ex. 2 (boldface in original).)

110. However, this letter was mailed to "103 Suburban Road" in Knoxville. (Hearing Ex. 21 at ¶ 13; *id.* at Aff. Ex. 2.) This is the address for Respondent Sams, not David and Bethany Castillo. (Hearing Ex. 21 at ¶ 5.)

111. As a consequence, Mr. Castillo-Rodriguez never received the March 2018 letter from the National Visa Center. (Hearing Ex. 21 at ¶ 13.)

112. In or about March of 2019, Mr. Castillo-Rodriguez spoke with Respondent Sams, who told Mr. Castillo-Rodriguez that he was waiting for a consular interview in Honduras. (Hearing Ex. 21 at ¶ 11.)

113. In May of 2019, Mr. Castillo-Rodriguez engaged William Wheatley to represent him in connection with domestic assault charges. (Hearing Ex. 21 at ¶¶ 14-15.) At that time, Mr. Wheatley informed Mr. Castillo-Rodriguez that Respondent Sams was not an attorney and had been disbarred. (*Id.* at ¶ 15.)

114. Thereafter, Mr. Wheatley took over Mr. Castillo-Rodriguez's immigration case. (Hearing Transcript, Vol. 2, at 122-23.) Since then, Mr. Wheatley has had to re-submit an I-130

petition and an I-601A waiver application, the latter of which Respondent Sams did not file.[11] (*Id.*)

115. Currently, Mr. Castillo-Rodriguez is awaiting a decision on his I-601A application. (*Id.*)

**G. File No. 61229-2-KB – Informant – William L. Wheatley, Esq. (Dixie Munoz) (Testimony by Affidavit – Hearing Ex. 22)**

116. Dixie Munoz, accompanied by her boyfriend, first met with Respondent Sams at 103 Suburban Road in Knoxville on July 19, 2017. (Hearing Ex. 22 at ¶ 4.) The purpose of the meeting was to seek legal assistance regarding Ms. Munoz's children, Iris and Nidier. (*Id.*)

117. Respondent told Ms. Munoz and her boyfriend that he was a lawyer and explained options for the children's cases. (*Id.* at ¶ 6.)

118. Respondent provided Ms. Munoz with a questionnaire to fill out and provided a bank deposit slip for her to make payments into his bank account at Sun Trust Bank. (*Id.* at ¶¶ 7-8; *id.*, Aff. Ex's. 2 and 3.)

119. On August 8, 2017, Ms. Munoz returned to Respondent's office for a telephonic hearing before the immigration judge. (*Id.* at ¶ 9.)

120. Respondent, Belen Miller (an interpreter), and a gentleman named "Danny" were present for the telephonic hearing. "Danny" spoke with the Judge; but Ms. Munoz had never met, or spoken with, "Danny" before that day. (*Id.* at ¶¶ 9-10.)

121. On December 1, 2017, Ms. Munoz met with attorney Darrell Sproles who further represented her in immigration matters. (*Id.* at ¶ 11.) She explained to Mr. Sproles her children's case and paid him $375 that day. (*Id.* at ¶ 12.)

122. The next time Ms. Munoz met with Mr. Sproles was on August 29, 2018, when she

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[11] It is undisputed that Respondent Sams returned to Mr. Castillo-Rodriguez the $715 paid for the filing of "forgiveness" papers. *See* Petition for Discipline at ¶ 39; Answer at ¶ 39.

entered into a "Contract for Retaining Legal Services" with Offices of Law of Immigration Services and signed a promissory note for payment of $5,925.00. (*Id.* at ¶ 13; *id.*, Aff. Ex. 4.)

123. Thereafter, all payments made by Ms. Munoz on the contract with Mr. Sproles were made to S2 Consulting. These payments were made as late as May 2019. (*Id.* at ¶¶ 15-17; *id.*, Aff. Ex's. 5-7.)

124. In addition, Ms. Munoz received text messages from Belen Miller reminding her to make her monthly payments and providing her with deposit slips for S2 Consulting, LLC. (*Id.* at ¶ 18.)

125. Currently, William Wheatley represents Ms. Munoz's children, who have a court date in November of 2024. (Hearing Transcript, Vol. 2, at 125.)

126. In a fashion similar to Mr. Chamale-Ponce, both Iris and Nidia would be eligible for special immigrant juvenile status, which had not been pursued on their behalf. Instead, a very weak asylum application was filed. (Hearing Transcript, Vol. 2, at 126.) Comparatively speaking, winning an asylum case is very difficult and asylum is sparingly granted, while applications for special immigrant juvenile status are highly successful. (*Id.* at 126-27.) In fact, Mr. Wheatley has never had an application for SIJV denied. (*Id.* at 126.)

127. At this time, Ms. Munoz does not have a pathway to legal citizenship unless she marries a U.S. citizen. However, her children still have an opportunity to attain legal resident status. (*Id.* at 127.)

128. Had special immigrant juvenile status been pursued in 2017 when Respondent was engaged, the children likely would be lawful permanent residents in the United States at this time. (*Id.* at 128.)

## II. CONCLUSIONS OF LAW.

1. "'Functionally, the practice of law relates to the rendition of services for others that

call for the professional judgment of a lawyer. The essence of the professional judgment of the lawyer is his educated ability to relate the general body and philosophy of law to a specific legal problem of a client; and thus, the public interest will be better served if only lawyers are permitted to act in matters involving professional judgment.'" *Petition of Burson*, 909 S.W.2d 768, 775 (Tenn. 1995) (quoting Canon 3 of the Code of Professional Responsibility).

2. Accordingly, acts performed by a non-attorney constitute the practice of law "if the doing of those acts requires 'the professional judgment of a lawyer.'" *Id.* at 776.

3. In this respect, Tennessee jurisprudence is "aligned . . . with the majority of jurisdictions holding that the drafting of pleadings and legal documents or the selection and completion of form documents constitutes the practice of law." *Fifteenth Judicial District Unified Bar Association v. Glasgow*, No. M1996-00020-COA-R3-CV, 1999 WL 1128847 at *4 (Tenn. Ct. App. Dec. 10, 1999). *See also Credential Leasing Corporation of Tennessee, Inc. v. White*, No. E2015–01129–COA–R3–CV, 2016 WL 2937094 at *8 (Tenn. Ct. App. May 17, 2016).

4. In *Unauthorized Practice Committee, State Bar of Texas v. Cortez*, 692 S.W.2d 47 (Tex. 1985), the Texas Supreme Court held that two self-professed immigration consultants (who were not licensed attorneys) were engaged in the practice of law. These "consultants" advertised their "35 years of experience" in immigration cases. *Id.* at 48. They "interview[ed]" clients, engaged in form selection, and usually charged $400 for preparing the immigration forms, as well as "gathering and storing supporting documentation." *Id.* The Texas Supreme Court held that "[a]lthough the act of recording a client's responses on the form I-130 probably does not require legal skill or knowledge, *the act of determining whether the I-130 should be filed at all does require special legal skills* [and] *advising a client as to whether to file an I-130 requires a careful determination of legal consequences.*" *Id.* at 50 (emphasis added). *See also id.* ("We therefore hold that the undisputed activities of the Cortezes in selecting and preparing the various

immigration forms required legal skill and knowledge.").

5. Similarly, in *Oregon State Bar v. Ortiz*, 713 P.2d 1068 (Or. App. 1986), the Oregon Court of Appeals affirmed an injunction against a non-lawyer who "advised and assisted people—up to 35 per year—in the preparation of applications for citizenship and immigration visas." *Id.* at 1069. Finding that "the practice of law includes the drafting or selection of documents and the giving of advice in regard thereto any time an informed or trained discretion must be exercised in the selection or drafting of a document to meet the needs of the person served," the Court of Appeals determined that the defendant had engaged in the practice of form selection and providing advice to his clients. *Id.* at 1070 (quoting *State Bar v. Security Escrows, Inc.*, 233 Or. 80, 89, 377 P.2d 334 (1962)).

6. In *State of Indiana ex rel. Indiana State Bar Association v. Diaz*, 838 N.E.2d 433 (Ind. 2005), a "notario" sought to avoid the issuance of an injunction over her immigration practice by arguing that she always "corrects persons whom she hears refer to her as an attorney by stating 'I am not an attorney, I am a notary public.'" *Id.* at 439. The Supreme Court rejected her argument, and focused—not on what she called herself—but on the actual services she provided, i.e.,

> Diaz provides immigration services not only to Spanish speakers, but also to English speakers, non-Spanish speakers and other individuals who do not require translations or interpretations. Diaz selects the immigration forms she believes are appropriate to address the particular need of the individual client. Diaz's immigration services have involved preparation of family-based immigration petitions, an occasional employment-based petition, at least one asylum appeal, and applications for becoming a naturalized U.S. citizen. Diaz explains to her clients the process by which USCIS may waive certain conditions that would otherwise bar approval of an alien's immigration application. In some instances, Diaz has accompanied her clients to the immigration office.
>
> Diaz has advised clients on such issues as seeking citizenship for minor children, visa priority dates, the implications of being married for less than two years, the procedure to follow if one does not fall within any of the eight bases listed on form I–485 for which an adjustment to status may be sought, status adjustment based on having a relative who becomes a U.S. citizen, and the process for completing employment-based immigration petitions.

*Id.* at 439-40. Based on this conduct, the Indiana Supreme Court found that the "notario" was providing legal services.

7. Applying this authority to the facts above, it is clear that Respondent Sams has engaged in the unauthorized practice of law and also has misrepresented himself as a licensed attorney when, in fact, he is not.

8. As previously noted, Respondent has held himself out as an "immigration consultant" who engages in "FORM SELECTION" and "STRATEGY" on behalf of his immigration clients. (Hearing Ex's. 9 and 10.) These are acts which require the "professional judgment of a lawyer." *Burson*, 909 S.W.2d at 776. *See also Glasgow*, 1999 WL 1128847 at *4; *White*, 2016 WL 2937094 at *8; *Cortez*, 692 S.W.2d at 50; *Ortiz*, 713 P.2d at 1070-71; *Diaz*, 838 N.E.2d at 444-46.

9. Indeed, with respect to Luis Sapil, Respondent Sams met with his client both before and after he was disbarred. Yet, after his disbarment, Respondent failed to inform Mr. Sapil that he no longer could practice law. Instead, at the first meeting after his disbarment, Respondent discussed with Mr. Sapil the four "steps" to be taken on his pathway to legal residency. Respondent, in his own hand, wrote a flow chart of each of these four "steps," outlining which forms must be submitted at each step, the filing fees, and his own compensation at $375/hour (which were labeled in the margin of one page as "Honorarios legales" or "legal fees"). (Hearing Ex. 1, Dep. Ex. 1 at pp. 3, and 5-6.) And, as attested by Catherine O'Connell, Respondent's estimate of $5,625 in "Honorarios legales" was not a "nominal" fee under 8 C.F.R. §§ 1.2, 1001.1(k).

10. This evidence clearly demonstrates that Respondent was exercising the type of professional judgment that is reserved for licensed attorneys. *See, e.g.*, Professional Conduct for Practitioners—Rules and Procedures, and Representation and Appearances, 87 Fed. Reg. 56,247,

56,249 (Sept. 14, 2022) (noting that—under the applicable provisions in 8 C.F.R.—non-practitioners only may engage in acts which "do not include the exercise of professional judgment to provide legal advice or legal services").

11. Similarly, Respondent held himself out as a lawyer to Llenci Soler-Guerrero, telling her that *he* would file an application for asylum on her behalf and that of her daughter. Yet, even though Ms. Soler-Guerrero met only with Respondent Sams, he handed off certain activities to other lawyers without any notice or explanation to her. An unknown lawyer—whom Sams described as his partner—participated in the December 2016 telephonic hearing with the immigration court. Another attorney, Daniel Slaughter, filed the application for asylum that Respondent had prepared. And a third attorney, Darrell Sproles, told her not to attend her December 2018 immigration court date—advice she relied on to her detriment.

12. These actions caused actual harm to Ms. Soler-Guerrero. Her asylum application was flawed in that it (a) contained facts pertaining to Ms. Soler-Guerrero's sister and (b) omitted key facts relating to Ms. Soler-Guerrero herself. In fact, her asylum application appears to have been "ghostwritten" by Respondent Sams, who asked Ms. Soler-Guerrero some questions about her family's names and about where she lived but nothing more, leaving him to substitute facts related to Ms. Soler-Guerrero's sister into her own asylum application.

13. The EOIR has recognized that

> [g]hostwriting is a practice that occurs when an unidentified individual, whether a practitioner or nonpractitioner, assists a noncitizen with or drafts pleadings, applications, petitions, motions, briefs, or other documents that motions, briefs, or other documents that are filed with EOIR. Ghostwritten documents can contain false or fraudulent information, sometimes unbeknownst to the noncitizen, and often present substandard, incomplete, inaccurate, or boilerplate work products. Ghostwriting is often a means for unscrupulous or unqualified individuals and other bad actors individuals and other bad actors to deceive and mislead noncitizens and EOIR or, with the acquiescence of noncitizens, ghostwriting may be a means to perpetuate fraud and undermine proceedings.
>
> [G]hostwriting is harmful to parties and undermines the integrity of the

proceedings, candor to the tribunal, and accountability.

Professional Conduct for Practitioners—Rules and Procedures, and Representation and Appearances, 87 Fed. Reg. at 56,252-253 (citing cases from 1997 to 2016).

14. In this instance, the harm appears irreparable as Ms. Soler-Guerrero's case cannot be reopened, and she faces the prospect of deportation.

15. Ronald Chamale-Ponce faces the identical prospect of deportation due to Respondent's conduct. While Mr. Chamale-Ponce periodically paid Mr. Sams between $100 and $200 between 2015 and 2018, an application for an SIJV was never filed on his behalf—notwithstanding the fact that he was eligible to receive it and that his eligibility was affirmatively recognized in the responsive pleading filed with the immigration court on his behalf. Again, applications for an SIJV are frequently granted; so often—in fact—that Mr. Wheatley has never had an application denied. Yet, notwithstanding his eligibility, no such application was pursued, and it now is too late to do so.

16. Further, the asylum application for Mr. Chamale-Ponce was filed more than a year after he entered the country. Accordingly, it was untimely, and—as with the SIJV application—he cannot pursue asylum at this time.

17. While other attorneys—notably Thomas Slaughter and Darrell Sproles—represented Mr. Chamale-Ponce in court, Mr. Chamale-Ponce believed Mr. Sams also was a lawyer—until he was told the truth by Mr. Wheatley in 2017. (Hearing Ex. 20 at ¶¶ 6 and 15, and 26.) Mr. Chamale-Ponce conferred directly with Respondent Sams, typically by text messaging,[12]

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[12] Among other things, these texts demonstrate Respondent acting as a liaison between Mr. Chamale-Ponce and "Lawyer Darrell" regarding certain papers that must be submitted to the immigration court. (*Id.*, Aff. Ex. 4 at pp. 4-5 (texts on January 9, 2019).)

The texts also show Respondent rendering legal advice with respect to Graciela Garay-Zavala, a friend of Mr. Chamale-Ponce, who was arrested for DUI. (*Id.*, Aff. Ex. 4 at pp. 2-3 (texts on September 9, 2018).) In response to Mr. Chamale-Ponce's inquiry as to whether "Graciela"

and paid only Respondent Sams. (*Id.* at ¶¶ 21-22.)

18. The evidence further demonstrates that Respondent engaged in the practice of law with regard to David Castillo-Rodriguez. Excluding the $715 that eventually was returned, Mr. Castillo-Rodriguez paid Mr. Sams $1,810 for immigration services.[13] He communicated only with Respondent Sams about his immigration case. And when Mr. Castillo-Rodriguez inquired in March of 2019 into the status of his immigration case, Respondent Sams stated that they were waiting on a consular interview in Honduras. In reality, one year earlier, the National Visa Center had sent a letter to Respondent's address advising that further action needed to be taken and that the failure to take such action would result in the termination of his visa registration.

19. Lastly, Respondent Sams engaged in the practice of law with Dixie Munoz. When she visited him in July of 2017, Respondent "explain[ed] to her the guardianship process for [her] children." (Hearing Ex. 22 at ¶ 7.) In fact, and in a manner similar to his dealing with Luis Sapil, Mr. Sam hand-wrote[14] the "steps" necessary for her children to attain legal status—i.e., the

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can get out of jail because she has a "green card waiting," Respondent Sams advises

> go ahead and get her out. Immigration could put a hold and take her to Louisiana because she hasn't stated the process for the Green Card yet. All she is is approved to start the process, but she hasn't yet filed all the papers and a DUI conviction will most likely stop the Green Card.

(*Id.*, Aff. Ex. 4 at p. 2 (texts on September 9, 2018).) In addition to showing that Respondent was rendering legal advice, this exchange also demonstrates his familiarity with Ms. Garay-Zavala's immigration status.

[13] This cannot be considered a "nominal" sum under 8 C.F.R. §§ 1.2, 1001.1(k).

[14] A comparison of the handwritten notes appended to the Affidavit of Ms. Munoz in Collective Exhibit 2, with the handwritten notes identified and described by Mr. Sapil as having been written by Respondent Sams himself, demonstrates that the handwriting is identical. This is further supported by the identical $375/hour fee-structure recited in both sets of notes.

submission of an "I-360 Petition"[15] and a "485 Packet."[16] (*Id.*, Aff. Ex. 2 at p. 18 (handwritten notes).) For this, Respondent Sams would charge $1,500 for "4 hours' time" (i.e., $375/hour[17]) related to Step One, and $2,250 for "6 hours' time" (again, $375/hour) related to Step Two.

20. This, again, is both form selection and strategy admittedly offered by Mr. Sams, which constitutes the practice of law.

21. In addition, while two attorneys—"Danny" (presumably Daniel Slaughter, who provided some services for Ms. Soler-Guerrero) and Darrell Sproles—performed some work for Ms. Munoz, virtually all payments for her services were made to S2 Consulting. (Hearing Ex. 22 at ¶¶ 12, and 15-19.)

22. The Tennessee Rules of Professional Conduct provide as follows:

**RPC 3.4**

A lawyer shall not:

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists. . . .

**RPC 5.5**

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

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15 A Form I-130 has many applications. One of which is to classify a juvenile alien as a "special immigrant" who "need the protection of a juvenile court because they have been abused, neglected or abandoned by a parent." *See* https://www.uscis.gov/i-360.

16 A Form I-485 also has many applications. *See* https://www.uscis.gov/i-485. It is unclear from the handwritten notes which application was contemplated by Respondent. However, since the notes also refer to an "I-765"—which is an application for employment authorization, *see* https://www.uscis.gov/i-765—it is logical to conclude that the Form I-485 would be used for the purpose of seeking permanent residency through a job offer. *See* https://www.uscis.gov/forms/explore-my-options/become-a-lawful-permanent-resident-green-card-holder-through-a-job-offer.

17 *See* Fact #51, *supra.*

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

**RPC 8.4**

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

. . .

(g) knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is based.

## III. DISCIPLINE TO BE IMPOSED

23. The imposition of punishment by the Hearing Panel is governed by Tenn. S. Ct. Rule 9, § 15.4(a). The American Bar Association's Standards for Imposing Lawyer Sanctions ("ABA Standards") serve as the appropriate yardstick for determining such punishment. *Id.* (stating that "[i]n determining the appropriate type of discipline, the hearing panel *shall* consider the applicable provisions of the ABA Standards for Imposing Lawyer Sanctions"; emphasis added). *See also Thompson v. Board of Professional Responsibility*, 600 S.W.3d 317, 320-21 (Tenn. 2020); *In re Vogel*, 482 S.W.3d 520, 533 (Tenn. 2016).

> The ABA Standards are designed to promote: "(1) consideration of all factors relevant to imposing the appropriate level of sanction in an individual case; (2) consideration of the appropriate weight of such factors in light of the stated goals of lawyer discipline; [and] (3) consistency in the imposition of disciplinary sanctions." ABA Standard 1.3. These standards serve as "guideposts" for

> determining the appropriate punishment rather than "rigid rules that dictate a particular outcome." ABA Standard 3.0 provides that four factors should be considered in imposing punishment for an attorney's misconduct: "the duty violated; . . . the lawyer's mental state; . . . the potential or actual injury caused by the lawyer's misconduct; and . . . the existence of aggravating or mitigating factors." ABA Standard 3.0. The ABA Standards suggest the appropriate baseline sanction, and aggravating and mitigating factors may justify an increase or reduction in the degree of punishment to be imposed.

*Vogel*, 482 S.W.3d at 533-34 (other citations omitted).

24. The facts outlined above set forth in detail the seriousness of the duty violated – a thrice-disbarred attorney continuing to engage in the practice of law. As evidenced by his use of licensed attorneys to appear before the immigration court to advocate for the positions he had taken in writing, there is also no doubt that Respondent knew his conduct constituted the unauthorized practice of law. The actual injury sustained by individuals was substantial including, but not limited to, the permanent ineligibility for citizenship for some of the applicants he represented.

25. The following ABA Standards apply to the Rules violated in this matter.

> 5.11 Disbarment is generally appropriate when:
>
> (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
>
> (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.
>
> 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party, or causes serious or potentially serious interference with a legal proceeding.
>
> 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

8.1 Disbarment is generally appropriate when a lawyer:

(a) intentionally or knowingly violates the terms of a prior disciplinary order and such violation causes injury or potential injury to a client, the public, the legal system, or the profession; or

(b) has been suspended for the same or similar misconduct, and intentionally or knowingly engages in further similar acts of misconduct that cause injury or potential injury to a client, the public, the legal system, or the profession.

26. Further, the Board has demonstrated the existence of the following aggravating factors:

- Respondent's dishonest or selfish motive;
- Respondent's multiple offenses;
- Respondent's substantial experience in the practice of law, having been licensed in Tennessee in 2003; and
- the vulnerability of Respondent's clients.

27. Based upon the conduct above, the applicable ABA Standards, and consideration of the aggravating factors, Respondent Sams should be disbarred.

**NOTICE**

**This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33, by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.**

ENTER this 30th day of January, 2023.

FOR THE HEARING PANEL:

Michael J. King, Chair

Stephen Marcum / by w/permission

Stephen Marcum

Lisa Hall / by w/permission

Lisa Hall

## CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Steven Edward Sams, P.O. Box 1588, Knoxville, TN 37901, by U.S. First Class Mail, and hand-delivered to Andrew B. Campbell, Disciplinary Counsel, on this the 31st day of January 2023.

Katherine Jennings
Executive Secretary

## NOTICE

**This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.**