



**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

In the Matter of

CELESTINE TATUNG, ESQUIRE

**A Member of the Bar of the
District of Columbia Court of Appeals.
Bar Number: 976830
Date of Admission: October 12, 2007**

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: **Disciplinary Docket Nos. 2018-D326,**
: **2020-D088 and 2021-D118**
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PETITION FOR NEGOTIATED DISPOSITION

Pursuant to D.C. Bar R. XI, § 12.1 and Board Rule 17.3, Disciplinary Counsel and Respondent Celestine Tatung, Esquire ("Respondent") respectfully submit this Petition for Negotiated Disposition in the above-captioned matter. Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar R. XI. Pursuant to D.C. Bar R. XI, § 1(a), jurisdiction is found because Respondent is a member of the Bar of the District of Columbia Court of Appeals.

I. Statement of the Nature of the Matter

In the first matter, Disciplinary Counsel received a complaint from Acha Etta alleging Respondent mishandled her immigration matter, failed to provide her with a retainer agreement, failed to file a change of address on her behalf, and

failed to appear at her immigration hearing and communicate the hearing date to her.

In the second matter, Disciplinary Counsel received a complaint from Ndi Temah, whom Respondent represented in an immigration matter. Mr. Temah alleged that Respondent mishandled his case, failed to communicate with him, and did not prepare him prior to his hearing.

In the third matter, Disciplinary Counsel received a complaint from Mathurin Atud, whom Respondent represented in an immigration matter. Mr. Atud alleged that Respondent failed to interview him and prepare his case before the immigration court.

As part of its investigation, Disciplinary Counsel subpoenaed and reviewed bank records relating to Respondent's operating account from January 2015 through December 2019, and subpoenaed Respondent's own records for the period of the representations. Respondent did not maintain complete financial records. Based on its review of the bank records, and the information Respondent provided during the investigation, Disciplinary Counsel determined that Respondent had commingled his funds with entrusted funds and failed to maintain complete records of the funds he deposited in and withdrew from the operating account between January 2015 through December 2019. Respondent did not have a trust account. Respondent presently has a trust account.

II. Stipulation of Facts and Rule Violations

2018-D326: Tatung/Etta

1. On December 6, 2014, Acha Rylindis Etta entered the United States through San Ysidro, California, and was detained.

2. Ms. Etta is a native of Cameroon who fled due to political persecution and wanted to pursue her asylum claim.

3. On May 11, 2015, Ms. Etta applied for asylum in open court.

4. On June 25, 2015, Ms. Etta was released on bond and relocated to Lanham, Maryland, where she lived for less than one month.

5. In July 2015, Ms. Etta moved to Washington, D.C. to live with a relative.

6. This same month, a friend of Ms. Etta introduced her to Respondent.

7. At the end of July 2015, Ms. Etta retained Respondent to assist her in her immigration case.

8. Ms. Etta informed Respondent of her current address in Washington, D.C., phone number, and email address.

9. Respondent agreed to take her case, request a change of venue, and assist her in her asylum case.

10. Respondent told Ms. Etta that his fee was \$5,000.

11. Respondent did not provide Ms. Etta with a written statement stating his fee and the scope of the representation.

12. In August 2015, Ms. Etta paid Respondent \$500.

13. Respondent deposited the funds in his Bank of America operating account ending in 0085.

14. In August 2015, Respondent requested a change of venue in Ms. Etta's case to the Baltimore Immigration Court. Respondent knew that Ms. Etta was living in D.C but stated in the change of venue form that her permanent address was in Lanham, MD and signed the form on behalf of Ms. Etta, without seeking or obtaining her consent.

15. Because Ms. Etta lived in D.C., her case should have been transferred to the Arlington immigration court.

16. In September 2015, Ms. Etta paid Respondent \$500.

17. On September 7, 2015, Respondent filed Ms. Etta's asylum application.

18. On November 8, 2016, the Baltimore Immigration Court issued a hearing notice for Ms. Etta, scheduling her for a master hearing on October 17, 2017. The hearing notice indicates that the notice was sent to Respondent, as the "Aliens Attorney/Representative."

19. Ms. Etta never received notice of the hearing from Respondent or

the court.

20. In January 2017, Ms. Etta contacted Respondent to assist her with her employment authorization. Respondent met with Ms. Etta to discuss the employment authorization applications but failed to advise her about the upcoming hearing.

21. Respondent filed employment authorizations on two separate occasions prior to the hearing in which he used Ms. Etta's D.C. address.

22. On August 21, 2017, the court rescheduled the hearing from October 17, 2017, to October 24, 2017. The court again sent the hearing notice only to Respondent.

23. Respondent did not notify Ms. Etta of the hearing date. Respondent did not call her about the hearing or email or mail her a copy of the hearing notice.

24. On October 24, 2017, Respondent's wife and employee, Mrs. Tatung, appeared at the Baltimore Immigration Court, but without Ms. Etta who had no notice of the hearing.

25. A few hours before the hearing, Respondent called Ms. Etta who told him that she was in the hospital.

26. As a result of her failure to appear, the court removed Ms. Etta in absentia.

27. On August 20, 2018, Ms. Etta filed a disciplinary complaint against

Respondent.

28. When Disciplinary Counsel asked Respondent to produce records accounting for the legal fees he received from Ms. Etta, Respondent did not produce any records.

29. Respondent's conduct violated the following District of Columbia Rules of Professional Conduct and 8 CFR §1003.102 grounds of discipline:

- a. Rules 1.1(a) and 1.1(b), in that Respondent failed to provide competent representation to a client.**
- b. Rule 1.3(a), in that Respondent failed to represent his client with zeal and diligence within bounds of the law;**
- c. Rule 1.4(a) and (b), in that Respondent failed to keep the client informed and failed to promptly comply with reasonable requests for information, and failed to explain matters to the extent reasonably necessary to permit his clients to make informed decisions regarding the representation;**
- d. Rule 1.5(b), in that Respondent did not communicate to his client in writing the basis or rate other fee and the scope of the representation before or within a reasonable time after commencing the representation;**
- e. Rule 1.15(a) and (e), in that Respondent failed to maintain**

complete financial records, failed to hold advances of unearned fees and unincurred costs that were in his possession in connection with a representation separate from his own funds, failed to obtain informed consent from the client to a different arrangement and thereby engaged in commingling; and

- f. Rule 1.15(b), in that Respondent failed to maintain an account with an “approved depository” for entrusted funds.

2020-D088: Tatung/Cowgill

30. On February 17, 2019, Ndi Temah’s family member, Ms. Philomena, retained Respondent to assist him with his asylum claim.

31. Respondent prepared a retainer agreement for the asylum representation and set the fee at \$5,500.

32. On March 5, 2019, Respondent filed an I-589 asylum petition at the merits hearing.

33. Prior to the March 5, 2019, hearing Respondent had only one telephone conversation with the client. Respondent did not meet with the client in person or discuss in detail the contents of the asylum application before filing it.

34. A merits hearing was scheduled for April 10, 2019.

35. The evening of April 9, 2019, Respondent had his first and only in-

person meeting with Mr. Temah. Ms. Philomena paid Respondent an additional \$500 at the meeting.

36. Mr. Temah did not feel prepared and had not been feeling well. Mr. Temah asked Respondent to continue the hearing and told Respondent he did not feel that they had communicated enough to go forward.

37. Respondent advised Mr. Temah that if the hearing were postponed, Mr. Temah would have to pay an additional legal fee to Respondent.

38. The April 10, 2019 hearing was continued because of an imminent snowstorm to May 21, 2019.

39. Respondent did not communicate with Mr. Temah either by phone or in person about his case until Mr. Temah saw him at the next hearing on May 21, 2019.

40. On May 14, 2019, Ms. Philomena paid Respondent \$1,000.

41. On May 23, 2019, Ms. Philomena paid Respondent \$500.

42. On June 21, 2019, the Immigration Judge denied the asylum claim in a written decision.

43. Respondent appealed on behalf of Mr. Temah.

44. On November 19, 2019, the BIA affirmed the Immigration Judge's findings and dismissed the appeal.

45. Mr. Temah retained successor counsel to file a motion to reopen

based on ineffective assistance of counsel.

46. On April 2, 2020, Mr. Temah filed a disciplinary complaint against Respondent through successor counsel because of Respondent's lack of communication and preparation prior to the immigration hearing.

47. When Disciplinary Counsel asked Respondent to produce records accounting for the legal fees Respondent that he received from Ms. Temah and his family, Respondent did not produce such records.

48. Respondent's conduct violated the following District of Columbia Rules of Professional Conduct and 8 CFR §1003.102 grounds of discipline:

- a. Rule 1.1(a), in that Respondent failed to prepare his client for the upcoming hearing;
- b. Rule 1.3(a), in that Respondent failed to represent his client with zeal and diligence within bounds of the law;
- c. Rule 1.4(a) and (b), in that Respondent failed to keep the client informed and failed to explain matters to the extent reasonably necessary to permit his clients to make informed decisions regarding the representation;
- d. Rule 1.15(a), in that Respondent failed to maintain complete financial records; and
- e. Rule 1.15(b), in that Respondent failed to maintain an account

with an “approved depository” for entrusted funds.

2021-D118: Tatung/Crayk

49. Mathurin Atud is a native and citizen of Cameroon who entered the United States on June 19, 2018, and requested asylum at the border.

50. On August 7, 2018, DHS commenced removal proceedings against Mr. Atud and sought his removal.

51. On December 18, 2018, the Immigration Judge ordered Mr. Atud’s removal from the U.S.

52. While Mr. Atud was detained in the immigration detention center in Aurora, Colorado, he met Respondent.

53. On September 10, 2018, Mr. Atud filed an asylum application *pro se* while he was still in detention. Mr. Atud was released from custody and his case was transferred to the Immigration Court in Utah where he lived with his sister, Noelia Atud.

54. Mr. Atud’s sister retained Respondent to represent Mr. Atud in his asylum case.

55. Respondent set the legal fee at \$5,500 to represent Mr. Atud.

56. Respondent did not provide Mr. Atud or his sister with a written statement setting out the basis or rate of this fee or the scope of the representation.

57. Respondent requested payment via Cash app.

58. On October 18, 2018, Mr. Atud's sister paid Respondent \$1,000 to begin work.

59. Respondent deposited the funds into his Wells Fargo checking account ending in 9339.

60. On November 12, 2018, Respondent entered his appearance as counsel for Mr. Atud.

61. On November 13, 2018, Ms. Atud paid Respondent an additional \$3,000. Respondent deposited the funds in his Wells Fargo checking account ending in 9339.

62. On November 14, 2018, Respondent filed an Emergency Motion for Telephonic Appearance.

63. On November 21, 2018, Respondent appeared telephonically to represent Mr. Atud. The court scheduled the asylum hearing for December 17, 2018.

64. On December 11 and 14, 2018, Ms. Atud made additional payments to Respondent of \$1,000 and \$500. The funds were deposited in the same Wells Fargo account.

65. Respondent did not prepare or communicate with Mr. Atud prior to the asylum hearing.

66. Respondent failed to request an interpreter for Mr. Atud to testify at the asylum hearing.

67. On December 18, 2018, the Immigration Judge issued its decision and denied Mr. Atud's asylum claim.

68. Mr. Atud retained Respondent to appeal the denial of his asylum case.

69. On January 16, 2019, Respondent entered his appearance and filed an appeal to the Immigration Judge's decision with the Board of Immigration Appeals.

70. Respondent set the legal fee for the appeal at \$3,000.

71. On February 5, 2019, Ms. Atud paid Respondent \$500.

72. On March 8, 2019, Ms. Atud paid Respondent \$500.

73. Soon thereafter, Mr. Atud told his sister to discharge Respondent because he did not trust he was actively working on his case.

74. When Disciplinary Counsel asked Respondent to produce records accounting for the legal fees that Respondent received on behalf of Mr. Atud, Respondent did not produce such records.

75. Respondent's conduct violated the following District of Columbia Rules of Professional Conduct and 8 CFR §1003.102 grounds of discipline:

- a. Rules 1.1(a) and 1.1(b), in that Respondent failed to provide competent representation to a client.
- b. Rule 1.4(a) and (b), in that Respondent failed to keep the client informed and failed to promptly comply with reasonable requests for information, and failed to explain matters to the extent reasonably necessary to permit his clients to make informed decisions regarding the representation;
- c. Rule 1.5(a), in that Respondent charged an unreasonable fee;
- d. Rule 1.5(b), in that Respondent did not communicate to his clients in writing the basis or rate other fee and the scope of the representation before or within a reasonable time after commencing the representation;
- e. Rule 1.15(a) and (e), in that Respondent failed to maintain complete financial records, failed to hold advances of unearned fees and unincurred costs that were in his possession in connection with a representation separate from his own funds, failed to obtain informed consent from the client to a different arrangement and thereby engaged in commingling; and
- f. Rule 1.15(b), in that Respondent failed to maintain an account

with an “approved depository” for entrusted funds.

III. Statement of Promises Made by Disciplinary Counsel

In connection with this Petition for Negotiated Disposition, Disciplinary Counsel agrees not to pursue any charges arising out of the conduct described in Section II, *supra*, other than those set forth above, or any sanction other than that set forth below.

IV. The Agreed-Upon Sanction

A. Agreed Sanction

Disciplinary Counsel and Respondent agree that the sanction to be imposed in this matter is a one-year suspension, 8 months stayed, and one-year probation with conditions.

Respondent and Disciplinary Counsel have agreed to the following conditions of this negotiated disposition:

1. Respondent must take three hours of pre-approved continuing legal education related to the maintenance of trust accounts, record keeping, and/or safekeeping client property. Respondent must take three hours of pre-approved continuing legal education in Immigration law. Respondent must certify and provide documentary proof that he has met these requirements to the Office of Disciplinary Counsel within six months of the date of the Court’s final order;
2. Respondent will refund all the fees he received from the three clients

and will do so during his one-year suspension. If he fails to provide the refunds, his suspension will continue until he does so.

Under Board Rule 17.5(a)(iii), the agreed-upon sanction in a negotiated discipline case must be “justified, and not unduly lenient, taking into consideration the record as a whole.” However, a justified sanction “does not have to comply with the sanction appropriate under the comparability standard set forth in D.C. Bar Rule XI, § 9(h).” Bd. R. 17.5(a)(iii).

Sanctions for incompetence, neglect, failure to communicate in immigration matters with attendant dishonesty run from 30-day suspensions to disbarment, depending on the scope of the neglect and dishonesty. *See, e.g., In re Cole*, 967 A.2d 1264 (D.C. 2009) (30-day suspension where respondent neglected his client's asylum application, falsely assured his client that the application had been filed, and falsely explained that the delay was attributable to the court); *In re Kanu*, 5 A.3d 1 (D.C. 2010) (disbarment where respondent counseled her clients to provide false information on visa applications, failed to tell clients that their application had been denied, evaded their inquiries, and lied to them and Bar Counsel about refunding fees), *In re Perez*, 828 A.2d 206 (D.C. 2003) (60-day suspension with fitness and restitution for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b)(1), 1.3(b)(2), and 1.4(a) in a single immigration matter, but neglect was

protracted and intentional and resulted in prejudice and damage to a vulnerable client), *In re Ryan*, 670 A.2d 375 (D.C. 1996) (four-month suspension with fitness and restitution for violating Rules 1.1, 1.3(b)(1), 1.3(b)(2), 1.16(d), 1.4(a), among other Rules, in five immigration law representations); *In re Rodriguez-Quesada*, 122 A.3d 913 (D.C. 2015) (two-year suspension with fitness and restitution for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b)(2), 1.3(c), 1.4(a), 1.4(b), 1.16(d), 3.3(a)(1), 8.4(c) and 8.4(d) in representing multiple vulnerable immigrant clients); *In re Ukwu*, 926 A.2d 1106 (D.C. 2007) (one-year suspension with fitness and restitution for violating Rules 1.1(a), 1.1(b), 1.3(a), 1.3(b), 1.3(c), 1.4(a), 1.4(b), 3.3(a)(1), and 8.4(d) in five immigration law representations; lawyer gave knowing false testimony at the hearing); *In re Vohra*, 68 A.3d 766, 786, 789 (D.C. 2013) (three-year suspension with fitness for violating Rules 1.1, 1.3, 1.4, 3.3, 8.1, and 8.4 in an immigration matter; respondent delayed and procrastinated his client's case, misrepresented the actual status of the case to his clients, forged a visa document, made numerous misrepresentations to Disciplinary Counsel, and testified falsely before the Hearing Committee, and had prior discipline)

B. Mitigating Factors

Mitigating circumstances include that Respondent: 1) acknowledges his misconduct; 2) has cooperated with Disciplinary Counsel; 3) has expressed remorse, (4) and has agreed to make restitution to the clients.

C. Aggravating Factors

Respondent has prior discipline. On August 15, 2023, the Supreme Court of Maryland issued Respondent a reprimand.

D. Justification of Recommended Sanction

Disciplinary Counsel has considered the resources required to prosecute the case and the likelihood of prevailing on the merits if this case went to hearing and believes that a negotiated disposition is warranted. Respondent has considered the resources necessary to defend the case and the possibility of greater sanction if the matter were to go to hearing.

Considering the misconduct along with the mitigating factors, the parties submit that the agreed-upon sanction is appropriate.

V. Respondent's Affidavit

In further support of this Petition for Negotiated Discipline, attached is Respondent's Affidavit pursuant to D.C. Bar Rule XI, § 12.1(b)(2).

Conclusion

WHEREFORE, Respondent and Disciplinary Counsel request that the Executive Attorney assign a Hearing Committee to review the Petition for Negotiated Discipline pursuant to D.C. Bar Rule XI, § 12.1(c).

Respectfully submitted,

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