

STATE BAR OF NEVADA

August 12, 2020



LETTER OF REPRIMAND

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Re: State Bar of Nevada Disciplinary Grievances:
OBC19-0740 (Franco Gallo) and
OBC19-0519 (Elianys Peralta Orozco)

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
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Dear Ms. Piroozi:

A Screening Panel of the Southern Nevada Disciplinary Board has reviewed the above-referenced grievances and unanimously determined that a Letter of Reprimand be issued for violations of Rules of Professional Conduct ("RPC") as set forth below.

GRIEVANCES

OBC19-0519:

On May 16, 2018, you consulted with Elianys Orozco and her husband Aminidad regarding Aminidad's immigration status and completing the consular processing by filing a I-601A application and brief in support of that application with the United States Citizenship and Immigration Service ("USCIS"). The Grievants signed a retainer agreement in Spanish and English and agreed to pay you a retainer fee of \$5,000 for attorneys fees. The retainer agreement also specified that there were two additional fees to be paid (i) two National Visa Center bills totaling \$445 and (ii) the I-601A filing fee of \$715. The fee retainer was paid by (i) an initial \$2,500 payment and (ii) four payments of \$625. The last payment of \$625 was paid on September 1, 2018. The Grievants believed that upon receipt of their personal information the application would be completed and submitted.

The Grievants returned to your office no later than August 2018 and were assisted by your nonlawyer employee, Juan. The Grievants gave Juan what they believed to be all the requested information for the I-601A application. The Grievants

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believed that nothing else was needed. The Grievants understood from Juan that after submitting the I-601A application the process would be rather long and it could take six to eight months for USCIS to reply. They believed that Aminidad would need to return to his country, Honduras, by December 2018 or January 2019 but they should not travel anywhere until there was an answer from USCIS. Based on this belief the Grievants were stressed and cancelled a trip to Miami.

On or about August 31, 2018, your staff identified that additional information was needed to complete the I-601A application. In addition, the Grievants never provided you with the filing fee necessary to submit the I-601A application. However, the Grievants were never contacted and the necessary information and fee was never obtained.

On February 08, 2019, the Grievants went to your office to inquire about the I-601A application. The Grievants were assisted by your non-lawyer employee Thalia. They understood, for the first time, from meeting with her that the application had not been submitted to the USCIS. The Grievants observed that all their original documents/information was laying on top of the same desk from months ago and appeared to be untouched. The Grievants were upset and very concerned because it appeared to them that nothing substantive had been done with their case in the nine months since they retained your office. The Grievants requested to speak with you and, based on everyone's availability, a meeting was scheduled for four days later.

When you met with the Grievants, you attempted to address their concerns with the delay and suggested that they could communicate directly with you in the future to alleviate any ongoing concerns. The Grievants decided to discontinue the attorney-client relationship and requested return of their documents. You declined the verbal request and instructed them that all requests needed to be made in writing. The Grievants retained new counsel, with whom you communicated thereafter, including providing the clients' documentation.

OBC19-0740:

You were retained on July 5, 2018 to represent Franco Gallo in immigration proceedings. Gallo has come to the United States from Italy and wished to remain. Gallo paid \$5,000 for the representation which included attending his interview on a previously filed I-485 petition on July 10, 2018 and preparing an I-360 Petition. Gallo was pursuing an I-360 Petition because the I-485 Petition, which was filed without counsel, was going to be rejected based on Gallo's recent divorce from his sponsoring spouse. An I-360 Petition is used by spouses or ex-spouses of an abusive U.S. Citizen.

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The I-485 Petition was denied in August 2018. At your direction, Gallo collected the information necessary for the I-360 Petition. By the end of October 2018, Gallo had provided your office with all necessary information for the I-360 Petition except proof of his ex-wife's legal U.S. residency. At the same time, you represented Gallo in trying to set aside a default divorce decree to give him an opportunity to dispute the property division and custodial arrangement for his son. Gallo's ability to stay in the United States was precarious based on the fact that his wife divorced him and his I-485 Petition was denied. Despite knowing this, for the next seven months, neither you, nor your nonlawyer employees, advanced the I-360 Petition. You were waiting for an evidentiary hearing in family court to obtain testimony from Gallo's ex-wife to support a claim for emotional cruelty in the I-360 Petition.

On or about May 20, 2019, Gallo terminated the representation stating that he was disappointed that his immigration matter had taken so long and that he could no longer try to wait it out in the United States. Nonetheless and even though the evidentiary hearing had not yet been held, on May 31, 2019, you filed Gallo's I-360 Petition using the exact information he provided in October 2018. On July 16, 2019, USCIS sent a Notice of Action, which informed Gallo, through your office, that his I-360 Petition had been received and it would be using his previously provided biometric information. On August 5, 2019, your office sent the Notice of Action to Gallo with a \$435 refund check because new biometrics were not needed. On August 7, 2019, the USCIS requested additional evidence from Gallo for the I-360 Petition. However, Gallo returned to Italy in August 2019.

REPRIMAND

Your conduct violated Nevada Rules of Professional Conduct ("RPC") as follows:

RPC 1.3 (Diligence) for failing to promptly and diligently address Gallo's immigration matter;

RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants) for failing to make reasonable efforts to ensure that your nonlawyer assistants' conduct was compatible with your professional obligations of diligence and communication as evidenced by your nonlawyer employees failing to communicate with the Grievants for many months regarding additional information and fees necessary to complete the I-601A application and the Grievants' misunderstanding of the application process and their obligations.

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Standard 4.43 of the ABA Standards for Imposing Lawyer Sanctions provides that “reprimand is generally appropriate when a lawyer is negligent and does not act with reasonably diligence in representing a client and causes injury or potential injury to a client.” The lack of diligence in handling these clients’ matters caused them additional anxiety and stress and the potential injury due to the delay in Arminidad’s application was great.

In Nevada, a reprimand can be a Public Reprimand or a Letter of Reprimand, with the later being the lowest form of discipline available. Taking into consideration your absence of prior discipline, the Panel finds that the lesser of the two sanction is appropriate.

Based upon the foregoing, you are hereby REPRIMANDED for violating RPC 1.3 (Diligence) and RPC 5.3 (Responsibilities Regarding Nonlawyer Assistants).

The Panel also cautions you that a best practice would be to tell clients in writing (i) what you expect them to provide to you before you will perform particular tasks in their immigration matters and (ii) what their obligations are during a particular immigration proceeding. It is also a best practice to establish a procedure for checking in with clients when a particular proceeding is taking a long time to process. The Panel acknowledges that after representing Arminidad and Gallo you have already implemented some such procedures.

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500 which is due 30 days from the issuance of this letter.

Sincerely,

Gary A. Pulliam

Gary A. Pulliam (Aug 12, 2020 11:33 PDT)

Gary Pulliam, Esq., Screening Panel Chair
Southern Nevada Disciplinary Board

RKF/sdr






revised Letter of Reprimand from February 18, 2020 Screening

Final Audit Report

2020-08-12

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| Created: | 2020-08-12 |
| By: | Kait Flocchini (Kaitf@nvbar.org) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAFixTJ39eA85geddfD0fJaXRbikgrMq O |

"revised Letter of Reprimand from February 18, 2020 Screening" History

-  Document created by Kait Flocchini (Kaitf@nvbar.org)
2020-08-12 - 6:26:44 PM GMT- IP address: 107.220.215.132
-  Document emailed to Gary A. Pulliam (pulliam.gary@gmail.com) for signature
2020-08-12 - 6:27:29 PM GMT
-  Email viewed by Gary A. Pulliam (pulliam.gary@gmail.com)
2020-08-12 - 6:32:50 PM GMT- IP address: 66.249.84.83
-  Document e-signed by Gary A. Pulliam (pulliam.gary@gmail.com)
Signature Date: 2020-08-12 - 6:33:43 PM GMT - Time Source: server- IP address: 68.108.173.221
-  Signed document emailed to Gary A. Pulliam (pulliam.gary@gmail.com), Kristi Faust (kristif@nvbar.org) and Kait Flocchini (Kaitf@nvbar.org)
2020-08-12 - 6:33:43 PM GMT