IN RE: MATTER OF GEORGE MAROUN, Jr.
BBO NO. 674213

COMMONWEALTH OF MASSACHUSETTS
BOARD OF BAR OVERSEERS
OF THE SUPREME JUDICIAL COURT

BAR COUNSEL, **Petitioner** **v.** **GEORGE MAROUN, JR.,** **Respondent.**	**B.B.O. File Nos:** 1-22-00273564 (Benedict/Muniz) 1-22-00273565 (Celadon/Salgado) 1-22-00273566 (Borges) 1-22-00273567 (Loja Castro) 1-22-00273576 (Bar Counsel) 1-22-00273900 (Silva/DeOliveira)

HEARING REPORT

On December 6, 2022, bar counsel filed a petition for discipline against the respondent, George Maroun, Jr. The thirteen-count petition charged that the respondent committed varied misconduct, some of it intentional, in connection with his representation of Brazilian immigrants seeking various forms of immigration relief. The respondent filed his pro se answer on December 27, 2022.

On January 5, 2023, bar counsel filed a Motion for Issue Preclusion, arguing that the first six counts of the thirteen-count petition for discipline were based on a judgment obtained in a Superior Court civil action brought by the Massachusetts Attorney General against the respondent for alleged unfair and deceptive practices, in violation of M.G.L. c. 93A. Bar counsel noted that there had been a twelve-day trial, resulting in a sixty-five page decision detailing the respondent's acts and omissions and imposing on him a civil penalty of $241,800 owed to the Commonwealth, plus attorney's fees. Bar counsel wrote that the first six counts of the petition for discipline "are based *directly* on factual findings made by the Superior Court in Commonwealth v. Maroun." Bar Counsel's Motion for Issue Preclusion, p. 2 (emphasis in

original). The respondent did not file an objection. By Order dated May 8, 2023, the Board Chair allowed bar counsel's motion for issue preclusion as to Counts One through Six.

Next, bar counsel filed a Motion to Deem Admitted Certain Allegations of the Petition for Discipline, namely, those in Counts Seven through Thirteen, on the grounds that the respondent had failed to respond to bar counsel's discovery requests. The respondent objected, and the Hearing Committee Chair denied the motion without prejudice, noting that under the Prehearing Order, the respondent needed to meet discovery obligations. Bar counsel filed a Motion for Clarification and/or Reconsideration, to which the respondent objected. The Chair issued a clarifying order that the respondent provide discovery within ten days. The respondent missed the deadline, but did provide discovery responses. Bar counsel renewed his Motion to Deem Allegations Admitted. The respondent objected. The Chair denied the motion, ruling that the respondent could testify at the hearing but could offer no exhibits or witnesses absent a showing of good cause or agreement from bar counsel, given the lack of disclosure regarding either.

The remote hearing was held on April 3 and 4, 2024. Forty exhibits were admitted. Six witnesses testified: Anna M. Borges, a complainant; Justin D. Seggelin, a BBO employee; Luz Loja Castro, a complainant; Rachel Benedict, Esq., successor counsel in one of the underlying matters at issue; Daniel E. Phair, Esq., successor counsel in one of the other matters; and the respondent.

On August 5, 2024, the parties filed their proposed findings and conclusions. By Order dated August 13, 2024, the hearing record was reopened to admit into evidence the Affidavit of Melanie Manzanilla, Supervisor of the BBO's Registration Department, dated July 9, 2024.

Findings and Conclusions[1]

Findings of Fact

1. The respondent, George Maroun, Jr., was admitted to the bar of the Commonwealth of Massachusetts on December 12, 2008. By order of the Supreme Judicial Court (Cypher, J.) entered August 9, 2022, the respondent was suspended from the practice of law in the Commonwealth of Massachusetts for a term of two years. He remains suspended. This matter is separate and distinct from the issues that led to the suspension entered on August 9, 2022.[2]

FACTS COMMON TO MORE THAN ONE COUNT

A. The Respondent's Practice of Law and Advertising Directed to the Brazilian Community.

2. At all times relevant hereto, the respondent's practice concentrated in the area of immigration law. Ans. ¶ 3; Order of Issue Preclusion ("OIP"), Ex. 2 (005).

3. While in practice, the respondent maintained several offices, including in Chelmsford, Somerville, Stoneham, and Woburn. OIP, Ex. 2 (005).

4. At all times relevant hereto, the respondent held himself and his firm out in advertising as specializing in the "Brazilian community." Id.

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[1] The transcript is referred to as "Tr. __: __"; the matters admitted in the answer are referred to as "Ans. ¶_"; and the hearing exhibits are referred to as "Ex. _." The matters admitted by the answer include those deemed admitted as a result of the respondent's failure to deny them in accordance with B.B.O. Rules, § 3.15(d). See Matter of Moran, 479 Mass. 1016, 1018, 34 Mass. Att'y Disc. R. 376, 379 (2018). We have considered all of the evidence, but we have not attempted to identify all evidence supporting our findings where the evidence is cumulative. We credit the testimony cited in support of our findings to the extent of the findings, and we do not credit contradictory testimony. In some instances, we have specifically indicated testimony that we do not credit

[2] As noted above, the respondent may not contest ¶¶ 3-50, 57-67, 73-81, 87-102, 108-118, and 124-136 of the petition for discipline. He *may* challenge bar counsel's proposed conclusions of law incident to each count, specifically ¶¶ 51-56 (Count One); 68-72 (Count Two); 82-86 (Count Three); 103-107 (Count Four); 119-123 (Count Five); and 137-142 (Count Six) of the petition for discipline.

5. Although the respondent does not speak or read Portuguese, a large majority of his clients from the Brazilian community did. Ans. ¶ 6. Some clients spoke English in addition to Portuguese; others spoke or read very little English. For this reason, the respondent relied on his employees, who spoke Portuguese, in order to interact with his clients. Sometimes these employees translated for the respondent as he spoke directly with his clients. Sometimes the respondent instructed his employees what to say to clients and left it to the employees to talk to clients. Often, the employees worked directly with the clients, with little or no involvement by the respondent. OIP, Ex. 2 (005).

6. Foremost among the respondent's Portuguese-speaking employees was Marinalva Harris. Harris was a legal assistant in the respondent's practice for almost ten years. Ans. ¶ 7. With respect to nearly every client referenced in Counts One through Six below, Harris was central to their interactions with the respondent and his practice. See Ans. ¶ 7; OIP, Ex. 2 (005).

7. Harris was closely involved in initial client meetings, often handling the larger part of the meeting without the respondent. In addition to Harris, the respondent also employed Jordana Almeida Mantovanelli and Nair Freitas as paralegals in his immigration practice. Both spoke, wrote, and read Portuguese as well as English. See Ans. ¶ 8; OIP, Ex. 2 (005-006).

8. At all times relevant hereto, the respondent understood that, as a lawyer and the employer of Harris, Mantovanelli, and Freitas, he was responsible for the actions of those subordinates, including with respect to their interactions with clients. Ans. ¶ 9; OIP, Ex. 2 (006).

9. The respondent kept close track of his employees' communications with clients. He routinely accessed and reviewed emails, text messages, voicemails, and other communications that clients sent to Harris or his other employees who interacted with clients.

The respondent also directed Harris to receive his permission before setting up an appointment with a prospective client. Ans. ¶ 10; OIP, Ex. 2 (006).

10. The respondent advertised his immigration services to the Brazilian community by using outlets directed at Brazilian immigrants, including Portuguese-speaking radio shows. He also relied on word-of-mouth advertising among the Brazilian community. Most initial contacts to the office were fielded by Harris or by a Portuguese-speaking receptionist. If a prospective client was interested in immigration legal services, the respondent's employees sought to set up an initial meeting at the respondent's office. Generally, the respondent met with every new client for *some* amount of time. OIP, Ex. 2 (006).

11. The respondent rarely was present for all or most of the meeting with a new client. More commonly, it was Harris who would explain to clients, or on relevant occasions here, would fail to adequately explain, how the respondent's office would help clients with their immigration status, and it was Harris who collected the client's signatures and discussed payment of fees. OIP, Ex. 2 (006).

12. The respondent's principal focus for a meeting with a new client was to enter into a fee agreement. OIP, Ex. 2 (006). The respondent drafted the fee agreements himself. Before undertaking a representation, the respondent required the prospective client to sign a fee agreement and make a "down payment" toward the fixed legal fee set forth in the agreement. Each of the clients referenced in Counts One through Six below signed a fee agreement, featuring mostly consistent terms. See Ans. ¶ 13; OIP, Ex. 2 (006-007).

13. The respondent's fee agreements with clients referenced in Counts One through Six below included, in Section 2, a "scope of representation." This scope of representation was

very brief and referred to certain sections of the immigration law. A typical scope of representation read:

> Represent in conducting an analysis of the Client's immigration options. Obtaining and reviewing his immigration history and relevant documentation, and filing entire 589 and 42B Submission including all filing fees and work permit fees.

Other fee agreements identify the scope as simply: "42B Cancellation of Removal." OIP, Ex. 2 (007).

14. The fee agreements also identified a fixed legal fee that the respondent would charge. This ranged from $4,000 to $30,000. The most common fee was $12,000 to $16,000 for a "589 and 42B" submission, which refers to an asylum application and a petition for withholding of removal. In addition, the fee agreements contained several disclaimers including that the respondent could not guarantee any particular outcome of the representation. Id.

15. At an initial client meeting, the respondent and Harris paid significant attention to obtaining an executed fee agreement, collecting a down payment, and arranging a payment plan to pay the remainder of the fixed legal fee. The respondent and Harris provided very little information, and sometimes *no* meaningful information, on exactly how the respondent would help the clients with their immigration status. The respondent and Harris provided only the broadest of explanations, typically stating simply that they would secure a green card for the client, and a work authorization and a driver's license, but without explaining what steps would be taken on the client's behalf. Although the fee agreement typically disclosed "589" or "42B," the respondent's clients had no idea what those numbers meant, and had no idea what mechanisms the respondent would employ to make them legal residents in the United States. More to the point, they had no idea that the respondent would submit an asylum application on their behalf. OIP, Ex. 2 (007-008).

B. Immigration Procedures Relevant to the Respondent's Practice.

16. Various avenues of relief are potentially available to a non-citizen who desires to remain in the United States. All of the clients referenced in Counts One through Six below had resided in the United States for more than a decade. All or nearly all did not have documentation that authorized them to reside in the United States. They were all fully employed, they all paid taxes, several owned their own businesses, several owned homes, most had children in Massachusetts public schools, and most of their children were U.S. citizens because the children were born here. Yet, these clients ran the risk of deportation if they happened to have an encounter with law enforcement. Most of the clients had no pending immigration proceedings at the time they visited the respondent for their initial consultation. OIP, Ex. 2 (008).

17. The respondent routinely filed applications on behalf of his clients seeking the following immigration benefits or actions: asylum, withholding of removal, and cancellation of removal. "Removal" refers to removal from the United States, i.e., deportation. OIP, Ex. 2 (008).

18. There are generally two paths for individuals seeking asylum. An individual seeking asylum who is not in removal proceedings may file an *affirmative* asylum application with the United States Citizenship and Immigration Services ("USCIS"). An individual seeking asylum who is already in removal proceedings may file a *defensive* asylum application that is heard by an immigration judge.

19. An asylum application is typically commenced using Form I-589, which can commence either an affirmative or defensive asylum application. For a person already in removal proceedings, the I-589 can include both an asylum application and withholding of removal. Another relevant form is the EOIR-42B ("42B"), which is used to request the cancellation of a removal order in cases where a client has already been ordered removed from the United States. OIP, Ex. 2 (008-009).

20. To be eligible for asylum, a petitioner must: (a) be present in the United States; (b) request asylum within one year of his or her arrival to the United States; and (c) establish that he or she has suffered past persecution or establish through credible, direct and specific evidence a fear of persecution in their home country of origin on account of any of five statutorily enumerated "protected ground[s]," namely "race, religion, nationality, membership in a particular social group, or political opinion." These requirements are set forth in Immigration and Nationality Act (INA), § 208, as amended, 8 U.S.C.A. § 1158; 8 C.F.R. § 208.13(a), (b)(1). OIP, Ex. 2 (009).

21. After an affirmative asylum application is filed, the Asylum Office schedules an interview with the asylum applicant by issuing an interview notice. At the interview, an asylum officer seeks to gather information about the applicant's claims, and assess the applicant's eligibility for asylum and the applicant's credibility. The applicant has the burden of proof to show that he or she satisfies the asylum criteria. If the Asylum Office determines that the applicant satisfies the asylum criteria, it may grant the application. If the Asylum Office determines the applicant is not eligible or not credible, then the Asylum Office will not grant the asylum application. If an asylum application is denied and the applicant has no other legal status at that time, the Asylum Office will refer the applicant to an immigration judge through the issuance of a Notice to Appear ("NTA"). This places the applicant into removal proceedings before an immigration judge. In a removal proceeding, the applicant can renew the asylum claim before an immigration judge. As with the Asylum Office, the immigration judge can grant or deny the asylum claim. If the immigration judge determines that the applicant is ineligible for asylum or otherwise does not have a legal basis for the asylum claim, the applicant would be subject to a removal order. OIP, Ex. 2 (009-010).

22. In sum, if a person files an asylum application that does not satisfy the asylum criteria, eventually he or she will be placed in removal proceedings before an immigration judge. It may take months or years for that removal proceeding to be finally heard, and applicants may renew their asylum applications before a judge (although the same criteria must be met). As a result, the filing of an affirmative asylum application carries risk, particularly for a person without any pending immigration proceedings. By virtue of filing an asylum application, the applicant's status changes from living peaceably in the United States (albeit without documentation and to some degree "in the shadows") to being in removal proceedings and facing a significant likelihood of deportation. OIP, Ex. 2 (010).

23. As noted above, one statutory requirement for asylum is that the application be filed within one year of the applicant's arrival in the United States. Limited exceptions apply to this rule. The one-year rule, and whether those exceptions apply, are among the criteria that will be assessed by an asylum officer, or an immigration judge, in connection with an asylum application. Id.

24. Applicants can avoid the one-year rule if they demonstrate the existence of changed circumstances which materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing an application. In the absence of an exception, the Asylum Office will refer an applicant with no legal status to an immigration judge through the issuance of an NTA. An example of a *changed* circumstance is where conditions in the applicant's home country have changed such that, when the applicant first arrived in the U.S., he or she could not claim persecution at home, but current political or other circumstances there would create a risk of persecution if the applicant returned. An example of *extraordinary* circumstances is where the applicant had no ability to learn about the one-year requirement for

asylum applications, for instance, because the applicant spoke a rarely-spoken language. As a general matter, a Portuguese-speaking applicant from Brazil would not be excepted from the one-year rule if their only reason for not filing a timely application is that they were not aware of that requirement. OIP, Ex. 2 (010-011).

25. Once undocumented immigrants are placed in removal proceedings, they still may pursue avenues for avoiding removal. First, they can seek to qualify for "*withholding* of removal." This issue is decided by an immigration judge. To qualify for withholding of removal, applicants must establish that it is likelier than not that they will face persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, if they are returned to their country of origin. The criteria for this protection are similar to asylum, but the "likelier than not" standard is more demanding than the standard for asylum. An asylum applicant must show that he or she has a subjective fear of future persecution and that there is an objective basis for such fear. Withholding of removal requires a determination that such persecution is more likely than not to occur. OIP, Ex. 2 (011).

26. Another avenue for relief is "*cancellation* of removal." This a form of immigration relief that allows eligible individuals who are subject to a removal order to remain in the United States. To qualify for cancellation of removal, an applicant must satisfy four elements: (a) continuous presence in the United States for 10 years; (b) good moral character during that 10-year period; (c) no convictions of certain criminal offenses; and (d) that their removal would result in exceptional and unusual hardship on the applicant's United States citizen or legal permanent resident spouse, child, or parent. These requirements are set forth in 8 U.S.C. § 1229b(b)(l). "Continuous presence" in the United States is deemed to end if an applicant is served with an NTA. OIP, Ex. 2 (012).

27. As in the case of asylum, it can take months or years to complete the adjudication necessary for withholding of removal or cancellation of removal proceedings before an immigration judge due to the immigration courts' significant backlog of proceedings. These proceedings carry risk for applicants for the same reasons that asylum applications are risky: if an applicant is successful, he or she may obtain formal protection under immigration law. However, if the statutory criteria are not met, the applicant faces the risk of deportation and its serious impact on the applicant's family. See OIP, Ex. 2 (012).

C. Overview of the Respondent's Practices Providing Immigration Services to Brazilians Who Were Not U.S. Citizens.

28. At their first meeting with a prospective client, the respondent and Harris focused on getting the client to sign a fee agreement, make a down payment, and agree to a payment plan for the balance of the legal fee. Little time or attention was dedicated to explaining exactly what steps the respondent proposed to take on the clients' behalf, and little if any time was dedicated to explaining the immigration process and the risks of pursuing an asylum application. For all or virtually all of the clients referenced in Counts One through Six below, the respondent filed an asylum application, usually an "affirmative" asylum application because the client was not yet in removal proceedings. The asylum application was almost always coupled with a withholding of removal application, as the Form I-589 allowed an applicant to seek both remedies. For the reasons noted above, filing an asylum application has serious consequences: it will result in removal proceedings if it is not successful. OIP, Ex. 2 (013).

29. The respondent and his staff did not discuss the immigration process they intended to use, the risks inherent in an asylum application, or the fact that the respondent would file an asylum application on their behalf. Therefore, the clients referenced in Counts One through Six below left their initial meeting with the respondent, having paid a down payment of

thousands of dollars for legal services, without knowing what applications or other legal steps the respondent would take on their behalf or appreciating the risks of those steps. Most clients learned that the respondent had filed an asylum application on their behalf only when they received a notice for an interview with an asylum officer, many months later. OIP, Ex. 2 (014).

30. The respondent and Harris intentionally avoided telling clients that they planned to file an asylum application because the clients generally knew that, as Brazilians, they had no serious basis to claim asylum. Had the respondent and Harris explained the actual legal steps they planned to take, and the risks associated therewith, it would have been exceedingly difficult to get clients to agree to those legal services, sign a fee agreement, and make a down payment. See OIP, Ex. 2 (014-015).

31. Once a client signed a fee agreement and made a down payment, the respondent and his staff obtained the client's signature on a series of forms necessary for the respondent to carry out his representation. The respondent's staff typically presented that same set of forms and asked the client to sign: (a) the Notice of Entry of Appearance in the immigration proceedings, known as the G-28 form ("G28"); (b) page 9 of the I-589 application for asylum and withholding of removal, which requires the applicant's signature, and (c) a blank signature page for what would become the client's affidavit in support of their asylum application. OIP, Ex. 2 (015).

32. When the respondent's staff presented for signature the G28 form, 589 form, and affidavit, they did not show the clients the forms in their entirety; instead, they showed the clients only the signature pages and where to sign. The respondent and his staff failed to explain what the clients were signing, or why, or the implications of the applications and affidavits once filed. The respondent's staff prepared the I-589 and the supporting affidavit using templates, or

simply prior versions filed for other clients. Both the I-589 application and the affidavits were nearly identical for all the clients referenced in Counts One through Six below. All claimed a fear of persecution in Brazil, relying on general conditions in Brazil related to crime, gangs, and government corruption. OIP, Ex. 2 (016).

33. Neither the respondent nor his staff reviewed with clients their asylum applications before seeking the client's signature. They never disclosed to clients that they were seeking asylum on the basis of fear of persecution in their home country. The respondent and his staff did not review with their clients the affidavit that set forth the basis for the asylum application; they did not even show the client the affidavit before it was filed. Instead, the respondent's staff secured the client's signature in blank and then generated an affidavit based off a Brazilian template, with or without some details that might be unique to a particular client, which may or may not be accurate. The respondent and his employees, with the respondent's knowledge and approval, routinely fabricated the affidavits that accompanied the asylum applications they prepared and filed for their clients without the knowledge or consent of their clients. The clients referenced in Counts One through Six below typically never saw their asylum affidavit until much later in the asylum process, such as before an interview, or sometimes only once they terminated the respondent's representation and obtained their file. These clients (a) never saw the affidavit at the time it was nominally signed or before it was filed with the government; (b) did not provide to the respondent and his staff the information set forth in the affidavit; and (c) contrary to statements made in the affidavits, did not actually fear persecution or for their safety were they to return to Brazil. OIP, Ex. 2 (016-017).

34. The asylum applications filed for the clients referenced in Counts One through Six below contained no basis for asylum that was likely to be recognized by the Asylum Office

or an immigration judge as satisfying the statutory criteria for asylum. Such applications were untimely because they were filed years after the applicant's arrival in the United States and offered no extraordinary circumstances for that lapse, saying only the applicant had not been aware they could apply. The respondent filed the asylum applications without sharing the applications or the asylum affidavits with his clients. OIP, Ex. 2 (018).

35. By its terms, an asylum application requires the person who prepared the application to sign a declaration that states, among other things, that the responses provided are based on all information of which the preparer has knowledge, or which was provided to them by the applicant, and that the completed application was read to the applicant in his or her native language for verification before he or she signed the application in the preparer's presence. That review of the application, in Portuguese, did not occur with respect to any of the clients referenced in Counts One through Six below. By signing, the preparer also acknowledges that he or she is aware that the knowing placement of false information on the I-589 may subject the preparer to civil and criminal penalties. OIP, Ex. 2 (019).

36. After an asylum application was filed, the Asylum Office would send the respondent's clients notice of an asylum interview. This typically was the first time that the respondent's clients learned that he had sought asylum on their behalf and claimed persecution and fear of harm in their home country of Brazil. Clients typically called the respondent's office, anxious about receiving the notice. The respondent or his staff routinely told clients not to worry, that the respondent or Harris would attend the interview with the client. The respondent did not view the asylum interviews as critical; he relied heavily on two concepts: first, that applicants would get a second chance if denied by the Asylum Office, in a *de novo* proceeding

before an immigration judge; and second, that applicants could submit supplemental information, beyond their application, in the proceeding before an immigration judge. OIP, Ex. 2 (019-020).

37. The asylum applications of the clients referenced in Counts One through Six below were uniformly late, filed well beyond one year of entry to the U.S., usually ten to twenty years after the applicant's entry. The protected categories identified by the respondent on those asylum applications generally did not satisfy the statutory requirements. The respondent invoked his clients' identities as a "Brazilian man" or "Brazilian woman," without further explanation, to qualify as a protected category. This was insufficient as a matter of law to establish the applicant's right to asylum. The respondent also routinely claimed protection under the Torture Convention, and often political views, with no factual basis. OIP, Ex. 2 (021-022).

38. The respondent's applications for the clients referenced in Counts One through Six below consistently relied on general conditions claimed in the applicant's home city or state in Brazil: high levels of violence, gang violence, and government corruption, which made it difficult for honest, hard-working people to stay safe and live in Brazil. Occasionally, an application included an experience unique to the applicant, but usually the affidavit cited high levels of crime and gang activity with no specific connection to the applicant. General descriptions of crime, gangs, and the challenges of living and working in one's home country as compared to the United States, were generally insufficient to support asylum. OIP, Ex. 2 (022).

39. The respondent knew or should have known that these consistent infirmities in the asylum applications he prepared created a very strong likelihood that the applications would ultimately be denied, by the Asylum Office as well as an immigration judge. This meant that his clients would be placed in removal proceedings and face deportation. Once that occurred, the respondent could still pursue withholding of removal, but that required satisfaction of the asylum

criteria under a more rigorous standard. The respondent also could pursue cancellation of removal, but that too required satisfaction of a rigorous and fact-specific standard, i.e., that removal of the applicant would pose an extraordinary hardship to the applicant's U.S. citizen family members (most often the applicant's children, born in the U.S.) – a hardship beyond the serious hardship associated with removal. OIP, Ex. 2 (022).

40. The clients referenced in Counts One through Six below who were not in removal proceedings when they retained the respondent were eventually placed in removal proceedings as a result of the asylum applications filed by the respondent. OIP, Ex. 2 (024).

COUNT ONE
(Julio Noquiera Ramos)
FINDINGS OF FACT

41. Julio Noquiera Ramos learned about the respondent through a radio program. He received the respondent's phone number from his pastor. In 2015, Ramos called the respondent's office and set up a meeting. When Ramos contacted the respondent, he had no immigration enforcement matters pending. At the initial meeting, Ramos met with the respondent and Marinalva Harris. The respondent and Harris told Ramos that the immigration process could take between two to four years and then he would get a green card. They also explained to Ramos that, before the green card, he could obtain a driver's license and a social security number. Beyond these generalities, the respondent and Harris did not explain to Ramos how the immigration process would work, or what applications or requests would be pursued on his behalf. OIP, Ex. 2 (025).

42. Harris showed Ramos exemplars of the documents she said he could expect to receive, including a letter requesting he get his fingerprints taken, a work authorization card, a social security card, a driver's license, and a blue letter telling him he needed to go before a

judge. Harris explained that when Ramos received "the blue letter" he should contact the respondent and the respondent would go to court with him. Harris told Ramos that after he went to court, he would have his green card. The respondent and Harris did not tell Ramos that they would be applying for asylum on his behalf. They did not request any documentation from Ramos to support an application for legal immigration status. They did not explain the risks of their intended actions, including the risk of deportation. OIP, Ex. 2 (026).

43. The respondent and Harris presented Ramos a fee agreement written in English. Ramos could not read and understand the agreement because he did not read English well. Without explaining the agreement, the respondent and Harris asked Ramos to sign the fee agreement, flipping through the pages and directing him where to sign. Ramos and the respondent signed a fee agreement dated September 22, 2015. As with all the fee agreements, the respondent drafted the fee agreement. The scope of representation in the fee agreement stated:

> THIS FIRM HAS BEEN HIRED TO CONDUCT A REQUEST AND FILE 589 BASED ON GENERAL COUNTRY CONDITION OF BRAZIL AND SUBSTITUTE IT TO 42B IF CLIENT ELIGIBLE DEPENDING ON HIS CRIMINAL RECORD AND OTHER CRITERIA NECESSARY FOR THE APPROVAL OF CANCELLATION OF REMOVAL.

OIP, Ex. 2 (026).

44. Ramos did not know what "589" meant, or that it specifically refers to an application for asylum. Ramos did not understand what "42B" or "cancellation of removal" meant or referred to. OIP, Ex. 2 (026).

45. The respondent charged Ramos $16,000 for his services per the fee agreement. Initially, Ramos gave the respondent $2,000 cash as a down payment. Over time, Ramos paid the respondent at least $5,000. Id.

46. In October 2015, the respondent prepared and filed an affirmative asylum application on Ramos' behalf, accompanied by a two-page affidavit the respondent's office prepared for Ramos. Before it was filed, the respondent and Harris showed Ramos pages of documents to sign, including the asylum application and affidavit. Harris flipped through the pages quickly and without explanation, telling Ramos where to sign, which he did. The respondent and Harris did not explain or translate any of the content of the asylum application, including the affidavit, for Ramos from English to Portuguese. Despite his contrary representation as preparer of Ramos' application, the respondent did not ensure that the information in Ramos's asylum application was accurate and complete and did not have the application read to Ramos in Portuguese for verification before Ramos signed the application. OIP, Ex. 2 (027).

47. In Part B of Ramos's asylum application, the respondent checked the boxes indicating that Ramos was applying for asylum or withholding of removal based on "Political opinion," "Membership in a particular social group," and "Torture Convention." The sole basis for Ramos' application for asylum based on membership in a particular social group was that he is a Brazilian man. The Ramos affidavit supporting the asylum application relied on general conditions of crime and Ramos' resulting fear of harm, including the following assertions:

> “[i]n Brazil people that are willing to earn an honest living are victims of all the gangs that rule the country."
>
> "I am absolutely terrified and scared of that place (Brazil) I've grown up there so I know how hard it is and how cruel people can be."
>
> that people in Brazil "live with threats, violence and corruption every day," and that "the police are not trustful; they are corrupt and just want to help themselves."
>
> the government of Brazil "is unable to control all of the gangs that exist in the country," and the police in Brazil "do not intervene with gang violence or

> threats," that they do not "protect hard working citizens from threats or extortion," and that "[a]s long as I am in the United States with my family, I know that we are safe."
>
> if Ramos returns to Brazil, he fears "I will be murdered and my family will be harmed," and that "[i]t is not fair that my family was a target of threats and violence, but that is how Brazil is."
>
> Due to increasing crime rates, "if they hear that you are even a bit successful or at least ha[ve] any little bit of money they will come after you they are dangerous and I'm scared for my life."
>
> Paragraph 14 reiterates that if Ramos returns to Brazil "I'm going to be a target of the violence and crimes; because everywhere you go in Brazil you can see all the violence and crimes that are ruining the country."

OIP, Ex. 2 (027-028).

48. Ramos' affidavit provided the sole basis for his application for asylum, as to political opinion, Torture Convention and membership in a group. The respondent never supplemented the application with additional information after it was filed. The respondent knew, or at a minimum should have known, that these bases for asylum did not satisfy the immigration law criteria. OIP, Ex. 2 (028, 059, n.16).

49. The respondent filed Ramos' asylum application more than one year after Ramos' last arrival to the United States. The respondent wrote on the application that Ramos did not file within one year because "[he] did not know [he] could apply for asylum." The respondent knew the application was untimely and knew that this reason was not an exception to the statutory one-year requirement. The respondent also had no information that was likely to support Ramos' cancellation of removal request, i.e., that a U.S. citizen relative would suffer exceptional and extremely unusual hardship if Ramos were to be deported. OIP, Ex. 2 (028).

50. The respondent failed to inform Ramos of the filing of the asylum application, the contents thereof, or the fact that removal proceedings could result from the filing. When Ramos

subsequently received a copy of the asylum affidavit and had it translated to Portuguese, he was shocked to discover that the affidavit contained untruthful statements. Ramos eventually terminated the respondent's representation and retained new counsel. Had Ramos been informed of the asylum application and the risks associated with it, he would not have approved applying for asylum. OIP, Ex. 2 (028-029).

CONCLUSIONS OF LAW – COUNT ONE

51. Bar counsel charged that by undertaking representation of Ramos without disclosing and explaining the legal processes that the respondent would employ on his behalf, and without disclosing and explaining the potential risks and benefits of using that process, the respondent violated Mass. R. Prof. C. 1.4(a) (keep client reasonably informed about status of matter) and (b) (explain a matter to the extent reasonably necessary for client to make informed decisions) as in effect before July 1, 2015, and Mass. R. Prof. C. 1.4(a)(2) (reasonably consult with client about means by which objectives are to be accomplished) and 1.4(b) (explain a matter to the extent reasonably necessary for client to make informed decisions) as in effect after July 1, 2015.

52. We agree that bar counsel has proved these rule violations. See generally Matter of Fitzgerald, 23 Mass. Att'y Disc. R. 153, 155 (2007) (finding violation of Rules 1.1 and 1.4 for failure properly to advise client or explain risks of particular strategy).

53. Bar counsel charged that by filing an asylum application and affidavit without Ramos' knowledge, consent, or review of such filings, the respondent violated Mass. R. Prof. C. 1.1 (provide competent representation to a client), 1.3 (act with reasonable diligence and promptness in representing a client), 1.4(a), 1.4(b) and 8.4(d) (do not engage in conduct

prejudicial to the administration of justice) as in effect before July 1, 2015, and Mass. R. Prof. C. 1.1, 1.3, 1.4(a)(2), 1.4(b), and 8.4(d) as in effect after July 1, 2015.[3]

54. We agree that bar counsel has proved these rule violations. See generally Matter of Maroun, 38 Mass. Att'y Disc. R. 313, 321 (2022) (same respondent; Single Justice upholds Board's conclusion that similar misconduct – failure to confer with client about contents of various filings, and the submission of an inadequate motion package – violated numerous rules, including 1.4(a), 1.4(b), 1.3, 8.4(d)).

55. Bar counsel charged that by filing an asylum application and affidavit on behalf of Ramos which contained materially false or inaccurate information that Ramos had not provided, the respondent violated Mass. R. Prof. C. 3.3(a) pre-July 1, 2015 (do not knowingly make false statement of material fact or law to tribunal; do not offer evidence lawyer knows to be false), Mass. R. Prof. C. 3.3(a) eff. September 1, 2018 (do not knowingly make false statement of fact or law to tribunal; do not offer evidence lawyer knows to be false); Mass. R. Prof. C. 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), 8.4(d), and 8.4(h) (any other conduct adversely reflecting on fitness to practice) as those rules were in effect before and after July 1, 2015.

56. We conclude that bar counsel has proved these rule violations. See Maroun, supra, 38 Mass. Att'y Disc. R. at 321-322 (Rule 3.3(a)(1) violation where respondent falsely certified that application was supported by substantial evidence, whereby he falsely represented that he had read client affidavit in a language she understood and that she had signed it in his presence); Matter of Macero, 27 Mass. Att'y Disc. R. 554 (2011) (misrepresentations and submission of false evidence to Court violated numerous rules, including 3.3(a)(1), 8.4(c), 8.4(d)

[3] There were no changes to Rules 1.1, 1.3, or 8.4(d) during the relevant time period.

and 8.4(h)); Matter of Ozulumba, 23 Mass. Att'y Disc. R. 515 (2007) (Rule 3.3(a)(1), 8.4(c) and (d) violated when lawyer made misrepresentations to court and prepared false affidavits for clients to sign).

57. Bar counsel charged that by filing an asylum application and affidavit that the respondent knew did not satisfy the criteria for asylum, but which would ultimately result in removal proceedings for his client, the respondent violated Mass. R. Prof. C. 1.1 and 3.1 pre-July 1, 2015 (do not bring or defend a proceeding or assert or controvert an issue without non-frivolous basis for doing so); Mass. R. Prof. C. 3.1 eff. September 1, 2018 (do not bring, continue or defend a proceeding or assert or controvert an issue without non-frivolous basis in law and fact for doing so) as those rules were in effect before and after July 1, 2015.

58. We conclude that bar counsel has proved these rule violations. See Matter of Kaplan, 40 Mass. Att'y Disc. R. __, __ (2024) (finding violation of Rule 3.1 where lawyer made false argument and baseless defense not grounded in fact); Matter of Ruggiero, 39 Mass. Att'y Disc. R. __, __ (2023) (finding violation of R.I. Rule 1.1, identical to Massachusetts version, where lawyer filed loan modification request with a negligible chance of approval, undermining client's needs).

59. Bar counsel charged that by filing an asylum application that the respondent knew was untimely and not excepted from the one-year rule, which was nearly certain to result in its denial, leading to removal proceedings for the respondent's client, the respondent violated Mass. R. Prof. C. 1.1 and 3.1 as those rules were in effect before and after July 1, 2015.

60. We agree, in light of the facts and case law cited above, that bar counsel has proved a violation of these rules.

61. Bar counsel charged that by charging Ramos $16,000 in attorney's fees and

collecting $5,000 of that amount for an asylum application petition that was meritless, untimely, and contained materially false information, and without explaining to Ramos the legal processes the respondent intended to use as well as the risks and benefits of those processes, the respondent violated Mass. R. Prof. C. 1.5(a) pre-July 1, 2015 (do not enter into agreement for, charge, or collect illegal or clearly excessive fee, listing eight factors); and Mass. R. Prof. C. 1.5(a) eff. September 1, 2018 (no change).

62. We agree that bar counsel has proved a violation of Rule 1.5(a). See generally Matter of Ruggiero, supra (Rule 1.5(a) violation for charging fees well above what was earned, failing to notice error in filed materials); Matter of Fitzgerald, 35 Mass. Att'y Disc. R. 137, 148 (2019) (finding Rule 1.5(a) violation in light of lawyer's "lack of competence and diligence during the course of the representation . . . and misrepresentations to the Appeals Court").

COUNT TWO
(Ronaldo Salgado and Regiane de Cassia Sarvinah Salgado)
FINDINGS OF FACT

63. Ronaldo Salgado ("Ronaldo") met Marinalva Harris at a party. He told Harris that he and his wife, Regiane de Cassia Sarvinah Salgado ("Regiane"), came to the United States years ago and that he hoped to get legal status. Harris told Ronaldo that she could help. OIP, Ex. 2 (029).

64. Ronaldo and Regiane made an appointment to meet with Harris at the respondent's office. In or around June 2015, they met with Harris and an assistant at the respondent's office. At that meeting, Harris told Ronaldo and Regiane that the respondent's office would apply for asylum and that this was the only way to get in front of an immigration judge. Neither Harris nor the respondent explained that an asylum application could be denied and, if so, this would lead to the institution of removal proceedings. Id.

65. Ronaldo and Regiane are native Portuguese speakers. They did not speak or read English well. In 2015, neither Ronaldo or Regiane could read and understand a legal document written in English. The respondent drafted and signed fee agreements with Ronaldo and Regiane dated "June 2015." No one translated the fee agreements into Portuguese. The scope of representation in each fee agreement stated: "Represent in conducting an analysis of the Client's immigration options. Filing entire I-589 for 42B Application including all filing fees." OIP, Ex. 2 (029-030).

66. The respondent charged Ronaldo and Regiane $14,000 each for these services. Together they paid the respondent at least $15,000, including $4,000 in down payments. OIP, Ex. 2 (030).

67. In June 2015, the respondent prepared and filed affirmative asylum applications on behalf of Ronald and Regiane, each accompanied by a one-page affidavit. Despite his contrary representations as preparer of the application, the respondent did not ensure the information contained in these applications was accurate and complete, and did not have the applications reviewed by his clients or read to them in Portuguese for verification before signing. OIP, Ex. 2 (030, 032-033).

68. In Part B of Ronaldo's and Regiane's asylum applications, the respondent checked the boxes indicating they were applying for asylum based on "Political opinion," and "Torture Convention." Regiane's application also included "Membership in a particular social group," that of "Brazilian woman." Ans. ¶ 62; OIP, Ex. 2 (030, 033).

69. The bases for these asylum claims were Ronaldo's and Regiane's respective affidavits. Ronaldo's affidavit contained the following statements:

> the "main reason why my wife and I moved to the U.S. was because we couldn't live with all the violence and crimes."

> "Brazil is a very violent country full of corruption and lacks justice and opportunities."
>
> Paragraph 5 states that Ronaldo was "amazed" when he came to the United States because of "how much the opposite of Brazil it was" and because "justice and police cannot be easily bought much like our city."
>
> Paragraph 6 states that Ronaldo is at greater risk of being assaulted or killed because of how long he has lived in the United States, which will lead people to "think we have more money."
>
> Paragraph 7 states that Ronaldo knows from his "family and the news that Brazil has only gotten worst [sic] since we came and that is terrifying."
>
> Ronaldo asks to be allowed to "keep living safely and honestly and be able to provide for our 2 U.S. citizen children."
>
> "In Brazil people that are willing to earn an honest living are victims of all the gangs that rule the country." If "they hear that you are even a bit successful" they will "come after you they are dangerous and I'm scared for my life and my wife's life."

See Ans. ¶ 63; OIP, Ex. 2 (030-031).

70. Except for the first two paragraphs, which listed the affiants' names and conveyed that they came to the United States with each other in 2000, the contents of Ronaldo's and Regiane's asylum affidavits were substantially identical. The affidavits relied on general alleged conditions of crime, gangs, and corruption. The respondent knew or should have known that these bases for asylum would not satisfy the immigration law criteria. OIP, Ex. 2 (031, 033).

71. The asylum affidavits that the respondent filed on behalf of Ronaldo and Regiane were not accurate. For example, Paragraph 3 of Ronaldo's affidavit claimed, "[t]he main reason why my wife and I moved to the U.S. was because we couldn't live with all the violence and crimes." This was not true. Ronaldo was not afraid for his life or his wife's life were he to return to Brazil, and never told that to the respondent's office. Likewise, Regiane's affidavit falsely represented that she feared for her life if she were to return to Brazil. OIP, Ex. 2 (032, 034).

72. The respondent's office never asked for additional information or documents that might support Ronaldo's or Regiane's asylum application or cancellation of removal, and they did not provide any. OIP, Ex. 2 (031, 034).

73. Ronaldo and Regiane learned through news media about claims made by the Commonwealth of Massachusetts against the respondent concerning his immigration practice. They stopped paying the respondent, ended the respondent's representation, and obtained new counsel. OIP, Ex. 2 (032, 034).

CONCLUSIONS OF LAW – COUNT TWO

74. Bar counsel charged that by undertaking representation of Ronaldo and Regiane without disclosing and explaining the legal processes that the respondent would employ on their behalf, and without disclosing and explaining the potential risks and benefits of using that process, the respondent violated Mass. R. Prof. C. 1.4(a) and (b) for conduct before July 1, 2015, and 1.4(a)(2) and 1.4(b) for conduct on or after July 1, 2015.

75. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

76. Bar counsel charged that by filing asylum applications and affidavits without his clients' knowledge, consent, or review of those documents, the respondent violated Mass. R. Prof. C. 1.1, 1.3, 1.4(a) and (b) and 8.4(d), as those rules were in effect before and after July 1, 2015.

77. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules

78. Bar counsel charged that by filing asylum applications and affidavits which contained materially false or inaccurate information that his clients had not provided, the

respondent violated Mass. R. Prof. C. 3.3(a), 8.4(c), 8.4(d), and 8.4(h) as those rules were in effect before and after July 1, 2015.

79. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

80. Bar counsel charged that by filing asylum applications and affidavits which the respondent knew did not satisfy the criteria for asylum, were untimely and not excepted from the one-year rule, and would ultimately result in the institution of removal proceedings, the respondent violated Mass. R. Prof. C. 1.1 and 3.1, as those rules were in effect before and after July 1, 2015.

81. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

82. Bar counsel charged that by charging Ronaldo and Regiane $14,000 each in attorney's fees, and collecting a substantial portion of that amount, for asylum applications that were meritless, untimely, and contained materially false information, the respondent violated Mass. R. Prof. C. 1.5(a) as that rule was in effect before and after July 1, 2015.

83. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

COUNT THREE
(Patricia Micheline Gomes Da Fonseca)
FINDINGS OF FACT

84. Patricia Micheline Gomes Da Fonseca was referred by a friend to the respondent. In 2013, Fonseca scheduled an initial consultation with the respondent's office. She met with Marinalva Harris. Fonseca asked Harris about the "ten-year law" and how it could help her remain in the United States. This referred to the standard for cancellation of removal, requiring

ten years in the United States plus a serious hardship if the applicant were deported. Harris told Fonseca that she could obtain documents through the "ten-year law," and that to do so, the person seeking the documents should have lived in the United States for ten years, have children, and have no criminal record. Harris also told Fonseca that through the ten-year law, she would have access to a work permit, driver's license, and eventually get a green card. At this initial consultation, Harris presented Fonseca with documents for her signature. The documents were written in English, which Fonseca could not read. No one translated the documents for Fonseca. Fonseca signed the documents. OIP, Ex. 2 (034-035).

85. No one from the respondent's office explained to Fonseca the process for asylum and cancellation of removal. Nor did anyone disclose or discuss the risks of filing for asylum, namely, the risk of deportation. At the time Fonseca hired the respondent, she had no pending immigration applications, had never been to a check-in with Immigration and Customs Enforcement, and had not had interactions with immigration authorities. At the time Fonseca contracted with the respondent for services, she believed that she was completing a legal application to obtain a green card. She did not know that the respondent would apply for asylum. OIP, Ex. 2 (035).

86. At the respondent's office, Fonseca was asked about her life in Brazil, what she did there, and whether anything of great impact happened to her family. She told the respondent's staff that she had studied business administration in Brazil and that her brother had been kidnapped by people who wanted his pickup truck. Besides this information, Fonseca did not provide, and the respondent's office did not seek, any additional information. Id.

87. The respondent drafted and signed a fee agreement with Fonseca dated July19, 2013. The scope of representation in the fee agreement, stated: "42B Cancellation of Removal."

Fonseca did not understand what "42B" or "Cancellation of Removal" meant or referred to. The respondent charged Fonseca $6,000 for his services. Ultimately, Fonseca paid the respondent at least $5,300. Id.

88. In July 2013, the respondent prepared and filed an affirmative asylum application on Fonseca's behalf, accompanied by a one-page affidavit the respondent's office prepared for her. Despite his contrary representations as preparer of the application, the respondent did not ensure that the information contained in Fonseca's asylum application was accurate and complete. Nor did he have the application read to Fonseca in Portuguese for verification before she signed the application. OIP, Ex. 2 (035-036).

89. In Part B of Fonseca's asylum application, the respondent checked the boxes indicating she was applying for asylum based on "Political opinion," "Membership in a particular social group," and "Torture Convention." Fonseca's affidavit states that she came to the United States "not because I wanted to, but because my life was at risk." The city that she is from "is small but it's very known by all the crimes," and "[o]ne day my brother[] and his girlfriend who happen to live near my house were kidnapped by three men, known criminals in the city and in the community, the intention of them were to take my brother's truck." When her brother and "sister-in-law" refused to give the kidnappers their truck, they "where [sic] taken captive," but they escaped two days later. Following the kidnapping Fonseca "was so afraid I was not the same person." The affidavit stated that she feared leaving her home to go to work and to college because "I knew that the people who did this to my brother and his girlfriend was someone in the town someone I knew and at any time they could do the same with me." The affidavit also stated that Fonseca was afraid of returning to Brazil with her United States citizen daughter because "something bad" may happen to them. Ans. ¶ 78; OIP, Ex. 2 (036).

90. The statements in Fonseca's affidavit related to kidnapping and theft of her brother's truck were the only source of information to support her application for asylum based on political opinion and the Torture Convention. The sole basis for Fonseca's application for asylum based on membership in a particular social group was that she was a "Brazilian woman." The respondent knew or should have known that these bases for asylum did not satisfy the immigration law criteria. OIP, Ex. 2 (036-037, 059, n.16).

91. Fonseca's asylum application was filed more than one year after her last arrival to the United States. The respondent wrote on the application that Fonseca did not file within one year because "[she] did not know [she] could apply for asylum." The respondent knew that the application was untimely and that this reason was not a cognizable exception to the one-year rule. Neither the respondent nor his staff discussed the one-year filing requirement with Fonseca or the risk of rejection under this rule. OIP, Ex. 2 (037).

92. Fonseca eventually retained a new attorney and withdrew her asylum application. To get advice from a new immigration attorney, Fonseca requested her file from the respondent's office. At that time, she saw the completed asylum application for the first time. Fonseca was surprised to read the asylum affidavit because it contained false statements, inconsistent with the information she had earlier provided to Harris and the assistant. Namely, Fonseca did not tell anyone in the respondent's office that she was "so afraid [she] was not the same person" after her brother was kidnapped. Fonseca continued her daily life after this incident occurred. Nor did Fonseca tell anyone in the respondent's office that she came to the United States "to start a new life without fear or concern." Id.

CONCLUSIONS OF LAW – COUNT THREE

93. Bar counsel charged that by undertaking representation of Fonseca without disclosing and explaining the legal processes that the respondent would employ on her behalf, and without disclosing and explaining the potential risks and benefits of using that process, the respondent violated Mass. R. Prof. C. 1.4(a) and 1.4(b) as those rules were in effect before July 1, 2015.

94. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

95. Bar counsel charged that by filing an asylum application and affidavit without his client's knowledge, consent, or review of those documents, the respondent violated Mass. R. Prof. C. 1.1, 1.3, 1.4(a) and 1.4(b), and 8.4(d) as those rules were in effect before July 1, 2015.

96. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

97. Bar counsel charged that by filing an asylum application and affidavit which contained materially false and inaccurate information that his client had not provided, the respondent violated Mass. R. Prof. C. 3.3(a), 8.4(c), 8.4(d), and 8.4(h), as those rules were in effect before July 1, 2015.

98. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

99. Bar counsel charged that by filing an asylum application and affidavit which the respondent knew did not satisfy the criteria for asylum, was untimely and not excepted from the one-year rule, and would ultimately result in the institution of removal proceedings, the respondent violated Mass. R. Prof. C. 1.1 and 3.1, as those rules were in effect before July 1,

2015.

100. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

101. Bar counsel charged that by charging Fonseca $6,000 in attorney's fees, and collecting a substantial portion of that amount, for an asylum application that was meritless, untimely, and contained materially false information, the respondent violated Mass. R. Prof. C. 1.5(a), as that rule was in effect before July 1, 2015.

102. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

COUNT FOUR
(Rhumenick Ferreira Miranda)
FINDINGS OF FACT

103. Rhumenick Ferreira Miranda was referred to the respondent by his friend. Miranda had been placed into removal proceedings after an arrest for driving without a license in 2013, approximately six years after entering the United States. At the time he contacted the respondent's office, Miranda remained in deportation proceedings. OIP, Ex. 2 (038).

104. Miranda's first conversation with the respondent's office was with Marinalva Harris. During the call, Miranda and Harris set an appointment for a week later at the respondent's office. On or about October 17, 2013, Miranda and his wife, Nubia Abreu, met with Harris. Miranda did not see the respondent during this meeting. Miranda did not speak or read English. He is a native Brazilian Portuguese speaker. Id.

105. At this initial meeting, Harris presented Miranda and Abreu with a fee agreement written in English. No one translated the fee agreement to Portuguese in writing or orally during the meeting. No one explained the contents of the fee agreement to Miranda and Abreu. Abreu

signed the fee agreement. Pursuant to the agreement, Miranda agreed to pay the respondent $6,500 for his services. This included a $3,000 down payment to be followed by monthly payments of $500 each. Id.

106. During the meeting with Harris, she explained to Miranda that his "clock had stopped" so he was not eligible for "the ten-year law." At the time Miranda and Abreu[4] contracted for the respondent's services, Miranda understood simply that he was applying for a way to stay in the United States longer and obtain a driver's license. Miranda also understood that the respondent's office could cancel his deportation order. Miranda thought that "the ten-year law" and cancellation of removal were different processes. Based on his conversation with Harris, Miranda believed that the respondent could and would cancel his deportation. OIP, Ex. 2 (038-039).

107. Harris told Miranda that applying for asylum would mean more time for him in the United States. Harris did not explain to Miranda the asylum process, the requirements for cancellation of removal, or his likelihood of success. She did not explain the risks of filing or the risk of deportation once his application was reviewed by immigration authorities. OIP, Ex. 2 (039).

108. At the time Miranda contracted with the respondent, he had no parents, children, or spouse who was a United States citizen or legal permanent resident. The respondent charged Miranda $6,500 to prepare his asylum application and another $2,500 to prepare his employment authorization application. Miranda paid the respondent at least $3,500. Id.

109. Miranda signed documents at the respondent's office, though he was not aware of exactly what he signed. Harris showed Miranda papers and told him where to sign, which he

[4] We received no further information about Abreu.

did. No one explained or translated the documents Miranda was asked to sign. The documents presented to him were written in English, which Miranda could not read and did not understand. Id.

110. In September 2014, the respondent prepared and filed an asylum application on Miranda's behalf, including a one-page affidavit the respondent's office prepared for Miranda. Miranda signed page 9 of the asylum application. Miranda did not sign the G-28 form where a signature appears purporting to be his. No one explained or translated any portion of the asylum application prepared by the respondent's office to Miranda. Id.

111. Despite his contrary representation as preparer, the respondent did not have the application read to Miranda in Portuguese for verification before Miranda signed the application. Id.

112. In Part B of Miranda's asylum application, the respondent checked the boxes indicating Miranda was applying for asylum based on "Membership in a particular social group," and "Torture Convention." The sole basis for these asylum claims was the affidavit submitted with the application, which focused on general conditions in Brazil related to crime and government corruption. The affidavit stated:

> “In Brazil, violence has grown tremendously, and the government is not interested in helping people."
>
> "Every day people are robbed, kidnapped and assaulted."
>
> "Every day hundreds of people go to the streets to protest against the government, because of all the corruption of Brazil, which is making the country sink."
>
> "With these protests, a lot of people, homes and business are robbed and vandalized."
>
> "In my city a few people take justice to their own hands, because they think that the city and the government can't protect the people." "And all this is because the

> Brazilian government is ruining the country."
>
> Paragraph 10 states: "Please let my family and I stay, so I can give them a safe living environment here in The [sic] United States."

Ans. ¶ 96; OIP, Ex. 2 (040).

113. The respondent knew or should have known that these general concerns about Brazilian crime and the Brazilian government would not satisfy the immigration law criteria for asylum. OIP, Ex. 2 (040).

114. The asylum affidavit was not the product of information provided by Miranda. Miranda could not read the affidavit (in English), and its contents were never translated for him into Portuguese. Instead, Harris directed Miranda to sign a blank white page that was appended to the first page of the asylum affidavit. The affidavit incorrectly identified Miranda's birth date. Miranda did not discuss the country conditions of Brazil, specifically those referenced in the asylum affidavit, with the respondent or anyone in his office. OIP, Ex. 2 (040).

115. Miranda's asylum application was filed more than one year after his last arrival to the United States. The respondent wrote in the application that Miranda did not file within one year "[b]ecause [he] did not know [he] could apply for asylum." The respondent knew the application was untimely and knew that this reason was not a cognizable exception to the one-year rule. OIP, Ex. 2 (041).

116. The respondent requested no additional information or documents in support of Miranda's application after its filing. Id.

117. After the respondent filed Miranda's asylum application, Harris instructed Miranda to obtain letters from friends who could vouch for his good character. Miranda did so. Harris did not explain how the respondent would use the letters as part of Miranda's case. Id.

118. Over two years after retaining the respondent, Miranda became aware that if his asylum application was rejected, he would be deported. Had the respondent discussed with Miranda the legal processes and Miranda's options, as well as the risks and benefits of the options, and had Miranda known that an unsuccessful application could lead to his deportation, Miranda would not have submitted an asylum application. Id.

CONCLUSIONS OF LAW – COUNT FOUR

119. Bar counsel charged that by undertaking representation of Miranda without disclosing and explaining the potential risks and benefits of using that process, the respondent violated Mass. R. Prof. C. 1.4(a) and 1.4(b), as those rules were in effect before July 1, 2015.

120. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

121. Bar counsel charged that by filing an asylum application and affidavit without his client's knowledge, consent, or review of the contents of those documents, the respondent violated Mass. R. Prof. C. 1.1, 1.3, 1.4(a) and 1.4(b), and 8.4(d), as those rules were in effect before July 1, 2015.

122. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

123. Bar counsel charged that by filing an asylum application and affidavit which contained information that his client had not in fact provided, the respondent violated Mass. R. Prof. C. 8.4(c), 8.4(d), and 8.4(h), as those rules were in effect before July 1, 2015.

124. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

125. Bar counsel charged that by filing an asylum application and affidavit which the

respondent knew did not satisfy the criteria for asylum, was untimely and not excepted from the one-year rule, and would ultimately result in the institution of removal proceedings, the respondent violated Mass. R. Prof. C. 1.1 and 3.1, as those rules were in effect before July 1, 2015.

126. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

127. Bar counsel charged that by charging Miranda $6,500 in attorney's fees, and collecting a substantial portion of that amount, for an asylum application that was meritless, untimely, and did not reflect information that Miranda had actually provided, the respondent violated Mass. R. Prof. C. 1.5(a), as that rule was in effect before July 1, 2015.

128. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

COUNT FIVE
(Adalgiza Souza Costa)
FINDINGS OF FACT

129. Adalgiza Souza Costa met Harris in 2013 when Harris came to her house to collect a payment from her boyfriend, who was a client of the respondent's at the time. Costa told Harris that she wanted to get a driver's license so she could drive her son safely and without fear of being stopped by police as an undocumented immigrant. Harris told Costa to meet her at her office in Woburn the following week. At the office, Harris promised Costa that she could get her a driver's license, work permit, and a Social Security number. She did not explain how. Harris did not tell Costa that she would get her a driver's license by applying for asylum or withholding of removal on her behalf. OIP, Ex. 2 (041-042).

130. Harris told Costa that since she had lived in Minas Gerais, a state in Brazil, before coming to the United States, she "would be all set." Costa entered into a fee agreement with the respondent on December 7, 2013. Costa is a native Portuguese speaker and she did not have the ability to read English. No one explained to Costa the terms of the fee agreement or translated the fee agreement for her from English into Portuguese. The Scope of Representation in the fee agreement references "589." Costa did not know what 589 meant or referred to. OIP, Ex. 2 (042).

131. The respondent charged Costa $10,000 for his legal services. Costa paid the respondent at least $5,000. Id.

132. During their first meeting at the office, Harris told Costa to sign a series of documents. In December 2013, the respondent prepared and filed an asylum application for Costa, accompanied by a one-page affidavit the respondent's office prepared for Costa. At the time the respondent filed the asylum application for Costa in 2013, she had already been deported from the United States twice. The respondent knew Costa was not eligible for asylum because of her deportation history, so he filed the application as a withholding-of-removal application. Ans. ¶ 111; OIP, Ex. 2 (042).

133. Despite his contrary representations as preparer of the application, the respondent did not ensure that the information contained in Costa's asylum application was accurate and complete before he signed the application. Nor did the respondent have the application read to Costa in Portuguese for verification before she signed the application. OIP, Ex. 2 (042).

134. In Part B of Costa's asylum application, the respondent checked the boxes indicating Costa was applying for withholding of removal based on "Race," "Religion," "Nationality," "Political opinion," "Membership in a particular social group," and "Torture

Convention." The application contained no specific basis for withholding of removal based on Race, Religion, or Nationality. Whatever basis for asylum that was advanced by Costa's application appeared in her asylum affidavit, which stated:

> That Costa had "tried many times to live in Brazil, but the place I come from is very dangerous and full of crimes," and that she fears for her son's and her safety and endangering their lives by returning to Brazil.
>
> That Costa fears returning to Brazil "more than before" because of "all the riots and protests against the government and so many people have died in these riots."
>
> That it is impossible for Costa to "try to get a better life where I could raise my son safely," which is why she has left Brazil "so many times."
>
> That "Governador Valadares is the 5th most violent city in Brazil," that "[t]here are a lot of deaths involving young adults such as my son," and that her son "has serious health problems that I wouldn't be able to afford treatment for in Brazil."

Ans. ¶ 113; OIP, Ex. 2 (043).

135. The affidavit accompanying Costa's withholding of removal application was materially untrue. Costa never told Harris, the respondent, or anyone in the respondent's office that she was afraid of riots, corruption, or protests in Brazil. The affidavit also misstated where she was born and the date she first entered into the United States. Costa never read the asylum application prepared by the respondent on her behalf and its contents were never explained to her, discussed with her, or translated for her into Portuguese. The respondent's employees directed Costa to sign where there were sticky notes placed on a stack of documents. They flipped the pages of the documents quickly, and Costa did not receive any explanation about the documents she was signing. OIP, Ex. 2 (044).

136. Costa's asylum or withholding of removal application was filed more than one year after her last arrival to the United States. The respondent wrote in the application that Costa did not file within one year "[b]ecause [she] was not aware [she] could apply." The respondent

knew that this reason was not a cognizable exception to the statutory one-year rule. OIP, Ex. 2 (043).

137. Costa remained the respondent's client until at least 2017. Costa was scheduled for an interview regarding her asylum or withholding of removal application in December 2017. At no point did the respondent supplement her application or ask Costa for new information. Id.

138. Costa contacted the respondent's office in 2017 and made an appointment to meet with the respondent after she received a notice written in English from USCIS, which her friend explained to her was for a court date. Costa explained to the respondent and Harris that she was afraid of going to court. The respondent told Costa that she was too nervous and upset and that she should not go to her interview or court. The respondent also told Costa not to worry about it, that she could leave and he would take care of the court date himself. Costa did not trust the respondent or Harris because they told her she did not need to go to her immigration appointment. Costa retained new counsel shortly before her asylum interview. Through her new counsel, Costa withdrew the asylum or withholding of removal application prepared by the respondent. As a result, Costa's case was "terminated" and she was placed into removal proceedings. OIP, Ex. 2 (043-044).

139. As a result of the problems created by the application the respondent submitted to USCIS on her behalf, Costa felt desperate, experienced depression, and lost weight. Costa would not have applied for withholding of removal if she had known that it would lead to her being placed in removal proceedings. OIP, Ex. 2 (044).

CONCLUSIONS OF LAW – COUNT FIVE

140. Bar counsel charged that by undertaking representation of Costa without disclosing and explaining the legal processes that the respondent would employ on her behalf,

and without disclosing and explaining the potential risks and benefits of using that process, the respondent violated Mass. R. Prof. C. 1.4(a) and (b) as in effect before July 1, 2015, and Mass. R. Prof. C. 1.4(a)(2) and 1.4(b) as in effect after July 1, 2015.

141. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

142. Bar counsel charged that by filing an asylum application and affidavit without his client's knowledge, consent, or review of those documents, the respondent violated Mass. R. Prof. C. 1.1, 1.3, 1.4(a) and (b), 8.4(d) as those rules were effect before July 1, 2015, and Mass. R. Prof. C. 1.1, 1.3, 1.4(a)(2) and 1.4(b) and 8.4(d) as those rules were in effect after July 1, 2015.

143. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

144. Bar counsel charged that by filing an asylum application and affidavit which contained materially false and inaccurate information that his client had not provided, the respondent violated Mass. R. Prof. C. 3.3(a), 8.4(c), 8.4(d), and 8.4(h) as those rules were in effect before and after July 1, 2015.

145. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

146. Bar counsel charged that by filing an asylum application and affidavit which the respondent knew did not satisfy the criteria for asylum, was untimely and not excepted from the one-year rule, and would ultimately result in the institution of removal proceedings, the respondent violated Mass. R. Prof. C. 1.1 and 3.1 as those rules were in effect before and after July 1, 2015.

147. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

148. Bar counsel charged that by charging Costa $10,000 in attorney's fees, and collecting a substantial portion of that amount, for an asylum application that was meritless, untimely, and contained materially false information, the respondent violated Mass. R. Prof. C. 1.5(a) as those rules were in effect before and after July 1, 2015.

149. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

COUNT SIX
(Paulo Andre Cordeiro / Carrina Cassiano Cordeiro)
FINDINGS OF FACT

150. Paulo Andre Cordeiro and his wife Carina Cassiano Cordeiro met the respondent and Harris through a friend. At the time the Cordeiros met the respondent and Harris, Mr. Cordeiro only spoke some English and had difficulty reading English, especially legal documents written in English. During the Cordeiros' first meeting with Harris, Mr. Cordeiro explained that he was seeking legal immigration status through his employer. At the time, the Cordeiros were legally present in the United States through the sponsorship of Mr. Cordeiro's employer under a program known as the permanent labor certification program (PERM). Harris told the Cordeiros that obtaining legal immigration status through PERM would take too long and that she had a faster option to help them each get a green card in about three years. OIP, Ex. 2 (047-048).

151. During this initial meeting, Harris told the Cordeiros that they could get legal immigration status because they had lived in the United States for over ten years and they had children who were United States citizens. During this initial meeting, Harris and the respondent

guaranteed that the Cordeiros would each get a green card. The respondent told the Cordeiros that he had connections and that he knew judges and immigration officers. These representations made the Cordeiros comfortable hiring the respondent as their immigration lawyer. OIP, Ex. 2 (048).

152. During the same initial meeting, Harris presented to the Cordeiros various documents for their signatures, including a fee agreement for each of them, both dated January 23, 2014. Harris did not translate or provide to the Cordeiros any explanation about the fee agreement or the other documents. The scope of representation in both agreements stated, "filing entire 589 and 42B Submission." The Cordeiros did not understand what "589" or "42B" meant or referred to. The respondent and Harris did not explain to the Cordeiros that the respondent would file for asylum on their behalf; nor did they disclose or discuss the risks of that application, including deportation. Before contracting with the respondent, Mr. Cordeiro had never been to immigration court or any immigration proceeding. Id.

153. The respondent charged the Cordeiros $15,000 each for his services. Together, the Cordeiros paid the respondent a total of $15,000 for his services on both of their cases. Id.

154. In January 2014, the respondent prepared and filed affirmative asylum applications on behalf of each of the Cordeiros. Each application was accompanied by a one-page affidavit in support. Ans. ¶ 128; OIP, Ex. 2 (049).

155. Despite his contrary representations as preparer of the applications, the respondent did not ensure that the information contained in the Cordeiros' asylum applications was accurate and complete before he signed those asylum applications; nor did he have the applications read to the Cordeiros in their native Portuguese for verification before they signed their respective applications. OIP, Ex. 2 (049).

156. In Part B of Mr. Cordeiro's asylum application, the respondent checked the boxes indicating Mr. Cordeiro was applying for asylum based on "Political opinion," "Membership in a particular social group," and "Torture Convention." The sole basis for these asylum claims was the information contained in the accompanying asylum affidavit. Paragraph 3 of Mr. Cordeiro's affidavit stated that he moved to the United States "because of everyday violence and crimes that happens in Brazil every day," and that the violence in Brazil and his city "increases more each day." Paragraph 4 stated that Mr. Cordeiro was "afraid to return to Brazil and be killed," that it would be "very hard" for his United States citizen children to "get used to the Brazilian lifestyle," and that Mr. Cordeiro did not "want to risk my life and the lives of my family." Paragraph 5 stated that police corruption in Brazil is increasing and that "[m]any Brazilians are protesting against the unjust police department and corruption throughout the country." Paragraph 6 stated that Mr. Cordeiro was afraid of returning to Brazil "[b]ecause of the protests and the clear corruption of law enforcement," that when he was in Brazil, he "suffered first hand the threats and corruption of police officers," and he "would be the target of the police officer my father got into an accident with." The sole basis for Mr. Cordeiro's application for asylum based on membership in a particular social group was that he was a Brazilian man. See Ans. ¶ 130; OIP, Ex. 2 (049-050).

157. Mrs. Cordeiro's asylum application and affidavit were substantively identical to that of Mr. Cordeiro. In Part B of Mrs. Cordeiro's asylum application, the respondent checked the boxes for asylum based on "Political opinion," "Membership in a particular social group," and "Torture Convention." Except for the affiants' names and birthplaces, Mrs. Cordeiro's asylum affidavit was the same as that of Mr. Cordeiro, including the claim that she was at risk

because *her* father had been in an accident with a police officer. See Ans. ¶ 131; OIP, Ex. 2 (050).

158. Both the Cordeiros' asylum applications were filed more than one year after their last arrival to the United States. The respondent wrote in the application that the Cordeiros did not file within one year because "[they] did not know [they] could apply for asylum." The respondent knew the application was untimely and that this reason was not a cognizable exception to the one-year rule. OIP, Ex. 2 (050).

159. Neither of the Cordeiros ever signed the affidavits accompanying their respective asylum applications. No one in the respondent's office discussed with either Mr. or Mrs. Cordeiro the reasons they moved to the United States. Both asylum affidavits were materially inaccurate. The affidavits falsely stated: "[Mr./Mrs. Cordeiro] would be the target of the police officer my father got into an accident with." Mr. Cordeiro does not know who his father is; there is no father listed on his birth certificate. Mr. Cordeiro also did not move to the U.S. because of violence and crime in Brazil and he was not afraid of being killed if he returned to Brazil. Neither the respondent nor his employees discussed the affidavit with Mr. Cordeiro. No one from the respondent's office translated or read the affidavit to Mr. Cordeiro. OIP, Ex. 2 (050-051).

160. With respect to cancellation of removal, the respondent possessed no information that a U.S. citizen relative of Mr. Cordeiro would suffer exceptional and extremely unusual hardship if Mr. Cordeiro were deported. After filing Cordeiro's application, the respondent did not request, and Cordeiro did not provide, any additional information or documents supporting his asylum application after it was filed. OIP, Ex. 2 (051).

161. The Cordeiros became concerned about the respondent's representation when Mrs. Cordeiro heard about an immigration scam related to asylum applications. Mr. Cordeiro called the respondent and set an appointment to talk with him about their cases. At the meeting, the respondent was rude and told Mr. Cordeiro that he should thank him and he "has ways to go around the law." Mr. Cordeiro terminated the respondent's representation and retained new counsel in or around April 2018. Id.

162. The Cordeiros would not have retained the respondent if they had known that the respondent would be applying for asylum on their behalf. They would not have filed for asylum had they known of the risk of deportation. Id.

CONCLUSIONS OF LAW – COUNT SIX

163. Bar counsel charged that by filing asylum applications on behalf of the Cordeiros without disclosing and explaining the legal processes that the respondent would employ on their behalf, and without disclosing and explaining the potential risks and benefits of using that process, the respondent violated Mass. R. Prof. C. 1.4(a) and (b) as those rules were in effect before July 1, 2015, and 1.4(a)(2) and 1.4(b) as those rules were in effect after July 1, 2015.

164. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

165. Bar counsel charged that by filing asylum applications and affidavits without his clients' knowledge, consent, or review of those documents, the respondent violated Mass. R. Prof. C. 1.1, 1.3, 1.4(a) and (b), and 8.4(d) as those rules were in effect before July 1, 2015, and Mass. R. Prof. C. 1.1, 1.3, 1.4(a)(2) and 1.4(b), and 8.4(d) as those rules were in effect after July 1, 2015.

166. In light of the facts and case law set out above, we conclude that bar counsel has

proved a violation of these rules.

167. Bar counsel charged that by filing asylum applications and supporting affidavits that contained materially false or inaccurate information, the respondent violated Mass. R. Prof. C. 3.3(a), 8.4(c), 8.4(d), and 8.4(h) as those rules were in effect before and after July 1, 2015.

168. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

169. Bar counsel charged that by filing asylum applications and affidavits which the respondent knew or should have known did not satisfy the criteria for asylum, were untimely and not excepted from the one-year rule, and that would ultimately result in removal proceedings for his clients, the respondent violated Mass. R. Prof. C. 1.1 and 3.1 as those rules were in effect before and after July 1, 2015.

170. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

171. Bar counsel charged that by charging the Cordeiros $15,000 each in attorney's fees, and collecting a substantial portion of that amount, for asylum applications that were meritless, untimely, and contained materially false information, the respondent violated Mass. R. Prof. C. 1.5(a) as those rules were in effect before and after July 1, 2015.

172. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

173. Bar counsel charged that by making false guaranties or misrepresentations concerning the likelihood that the respondent would secure documentation or other legal authority for his client to reside in the United States, and by stating or implying an ability to influence improperly a government agency, the respondent violated Mass. R. Prof. C. 8.4(c) and

8.4(e) (professional misconduct to state or imply ability to influence improperly government agency or official) as those rules were in effect before and after July 1, 2015 (professional misconduct to state or imply ability to (1) influence improperly government agency or official or (2) to achieve results by means that violate Rules of Professional Conduct or other law).

174. We conclude that bar counsel has proved these rule violations. See Matter of Gordon, 23 Mass. Att'y Disc. R. 203 (2007) (finding Rule 8(e) violation where lawyer solicited a criminal defendant for business, improperly implying that he had contacts in the District Attorney's Office whom he could influence for a favorable outcome).

COUNT SEVEN
(Misconduct of Respondent's Non-Lawyer Employees)
FINDINGS OF FACT

175. Incorporating by reference all of the preceding allegations, bar counsel seeks further findings of fact as follows.

176. First, bar counsel requests the panel to find that if, and to the extent that, any of the acts of misconduct described above were committed by Harris and/or by another non-lawyer member of the respondent's staff, the respondent failed to make reasonable efforts to ensure that such person's conduct was compatible with the respondent's professional obligations as a lawyer.

177. Next, bar counsel seeks a finding that if, and to the extent that, any of the acts of misconduct described in Counts One through Six above were committed by Harris and/or by another non-lawyer member of the respondent's staff rather than by the respondent personally, the respondent was aware of such misconduct at the time, ratified it, and/or became aware of it at a time when the consequences of such conduct could be avoided or mitigated, but failed to take reasonable remedial action.

178. Both of these allegations were charged in the petition for discipline, and the respondent denied both in his Answer, stating that he always supervised his employees (Ans. ¶ 144), and that he and his staff never committed any misconduct. Ans. ¶ 145.

179. At the end of the first day of hearing, when bar counsel described his proposed presentation and witnesses for the second hearing day, the panel asked if he planned to put on any evidence about Count Seven. Tr. 1:164 (Hearing Committee Chair). Bar counsel confirmed that he was planning to rely for this count on whatever evidence was in the record, and that argument about it would "come together in the request for findings." Tr. 1:165, 166 (Bar Counsel).

180. With the exception of a few vague comments about the respondent's staff generally, see Tr. 1:65-66 (Respondent), and evidence regarding certain meetings in which Harris participated as discussed above, we heard no testimony at the hearing about the particular activities of Harris or any other staff person.

181. We also heard nothing about the respondent's office procedures or policies, including, for example, how he operated his office, how he staffed it, how he handled client meetings, and who was employed by him and when.

182. We agree that in Counts One through Six, there is periodic mention of Harris and what she did or failed to do. Fleeting reference is made to two other employees. Petition, ¶¶ 8, 9. With the exception of these occasional references, there is no information about the respondent's staffing or office protocols.

183. Bar counsel devoted no argument in Bar Counsel's Proposed Findings of Fact, Conclusions of Law, and Recommendation for Discipline (PFCs) to the failure to supervise charges in Count Seven, and cited no case law. Cf. Matter of Ruggiero, supra, 39 Mass. Att'y

Disc. R. at __ (misconduct includes violation of Rule 5.3(b) and (c) for failure to supervise employees and improper ratification of their actions; Single Justice cited lawyer's admission that he provided no instruction to staff, and lack of record evidence that he supervised them); Matter of Goldberg, 34 Mass. Att'y Disc. R. 135, 136-137 (2018) (public reprimand for violation of Rules 5.3(b) and 5.3(c)(2); Board cited specific policies, practices and lapses in support of analysis and sanction).

184. In the absence of specific evidence relating to the supervision of staff and relevant practices in the office, we decline to make the findings of fact bar counsel requests.

CONCLUSIONS OF LAW – COUNT SEVEN

185. Bar counsel charged that by failing to take reasonable measures to avoid or mitigate the alleged misconduct of his non-lawyer staff, and by knowingly permitting such misconduct to take place under his management and supervision of his law practice, the respondent violated Mass. R. Prof. C. 5.3(b) (with respect to employed nonlawyer, lawyer having direct supervisory authority shall make reasonable efforts to ensure that person's conduct is compatible with lawyer's professional obligations) and 5.3(c) (with respect to employed nonlawyer, lawyer shall be responsible for conduct that would violate Rules of Professional Conduct if lawyer orders or ratifies it or knows of conduct when its consequences can be avoided but fails to take reasonable remedial action) as those rules were in effect before and after July 1, 2015.

186. For the reasons stated above, we conclude that these charges were not proved.

COUNT EIGHT
(Eddy Soriano Muniz and Jamile Aedl Lauar Soriano)
FINDINGS OF FACT

187. Pursuant to an engagement agreement dated March 5, 2018, the respondent represented Eddy Soriano Muniz and Jamile Aedl Lauar Soriano. The scope of the representation read: "File I-130 application and interview preparation (if necessary)." Ex. 8 (077). The respondent promised to work "both diligently and ethically to achieve your desired results." Id. He did not charge the clients a fee, agreeing that he would work pro bono and that the clients would pay the $600 filing fee. Ex. 8 (078).

188. On or about December 10, 2021, the USCIS issued a Notice of Intent to Deny ("NOID") the Form 1-130 "Petition for Alien Relative" filed by the respondent on behalf of Muniz and Soriano. Ex. 10.[5] The NOID detailed the reasons for the denial, largely that the parties' marriage was entered into for the purpose of evading immigration laws. Ex. 10 (084). They were given thirty days to submit additional information. Id. In the wake of that NOID, Muniz and Soriano attempted to contact the respondent to request his assistance. They were unable to reach him by phone, or in person. See Ex. 6; Tr. 2:60, 61 (Benedict).

189. Muniz and Soriano sought and obtained new counsel, Rachel Benedict, Esq. Ex. 6; Tr. 2:49 (Benedict). Attorney Benedict tried unsuccessfully to reach the respondent to get his file. After she and her clients were unable to reach him, she sent a letter, dated February 3, 2022, to the Office of Bar Counsel, seeking its help in reaching the respondent. Tr. 2:60 (Benedict); Ex. 6. She detailed the efforts that had been made to date to reach the respondent: the clients had telephoned, and she had emailed, sent a certified letter, and tried to reach him by phone at the number listed on his BBO registration entry, but the number was no longer in service. Ex. 6. Her

[5] We credit successor counsel's testimony that while the NOID is dated 2020, it was actually issued in 2021. Tr. 2:51 (Benedict).

letter reflected appropriate urgency, noting that the parties' NOID response was due before March 13, 2022. Tr. 2:60-61 (Benedict); Ex. 6.

190. After Benedict sent the letter, she received a call from an attorney at the BBO. Tr. 2:63 (Benedict). Although she did not discuss its details, we credit that the respondent emailed her "immediately" thereafter, and promptly sent the file. Id. She was able to respond to the NOID. Id.

CONCLUSIONS OF LAW – COUNT EIGHT

191. Bar counsel charged that by failing promptly to comply with his clients' efforts, personal and through counsel, to obtain their file relative to the I-130 application, the respondent violated Mass. R. Prof. C. 1.4(a)(4) and 1.15A(b) (make client's file available within a reasonable time after request).

192. We conclude that bar counsel has proved a violation of these rules. Although the respondent eventually complied, this was only after first ignoring multiple requests from his clients and from their successor counsel, Benedict. Especially with a deadline looming, this was not the "prompt" compliance mandated by Rule 1.4(a)(4), or the "reasonable time" contemplated by Rule 1.15A(b). Cf. Matter of Pomeroy, 21 Mass. Att'y Disc. R. 546, 547 (2005) (finding violation of Rules 1.2(a), 1.3, 1.4 and 1.16(d) where lawyer ceased communication with clients and failed to return files and unearned fees; commissioner was appointed and returned files); Admonition 22-05, 38 Mass. Att'y Disc. R. 599 (Rule 1.15A(b) violation where lawyer did not turn file over to successor counsel until OBC's involvement).

COUNT NINE
(Andre Luiz Ferreira Da Magalhaes Salgado)
FINDINGS OF FACT

193. Andre Luiz Ferreira Da Magalhaes Salgado (referred to herein as "Andre" to avoid confusion with the clients in Count Two) retained the respondent to represent him in cancellation of removal proceedings before the Boston Immigration Court. See Ans. ¶ 152.

194. The respondent represented Andre at his individual hearing before the Immigration Court on September 6, 2019. Tr. 2:79 (Phair). At the conclusion of the hearing, Andre was ordered removed from the United States because of a moral character issue, described as driving while intoxicated with a child in the car. Tr. 1:106 (Respondent); see Ans. ¶ 155.

195. Following the hearing, the respondent filed a Notice of Appeal on behalf of Andre with the Board of Immigration Appeals (the "BIA"). The respondent testified that "you have to file a new engagement contract for an appeal or if he decides to have the [sic] another attorney do the appeal brief for him he has to find another attorney." Tr. 1:107 (Respondent).

196. After filing the Notice of Appeal, the respondent stopped responding to Andre's attempts to communicate. From March 2021 to August 2021, Andre made numerous attempts to contact the respondent. After Andre unsuccessfully tried to reach the respondent over a period of many months, his wife traveled to the respondent's registered office address in Windham, New Hampshire. She found that office was no longer occupied by the respondent. Ans. ¶ 156 (not denied).

197. Andre consulted with a new attorney, Attorney Wax, who determined that Andre's appellate brief was due at the BIA on September 3, 2021. See Tr. 2:80 (Phair). She referred Andre to another firm, known as Celedon Law. In August 2021, Andre consulted with Celedon Law for assistance. Id.

198. On August 30, 2021, Andre retained Celedon Law to assist him with his appeal to the BIA. Tr. 2:80 (Phair). Celedon Law filed a request for an extension of the briefing schedule. The court allowed Celedon until December 1, 2021 to file its materials. Tr. 2:82-83 (Phair).

199. In order properly to represent Andre going forward, Celedon Law on September 1, 2021, requested by email that the respondent provide the firm with a copy of Andre's client file. Tr. 2:86-87 (Phair). The respondent failed to abide by this request when it was first made, forcing Celedon Law to make repeated requests via phone and a certified letter sent November 10. Tr. 2:87 (Phair). The respondent ultimately provided a copy of Andre's file on or about November 18, 2021. Tr. 2:87-88 (Phair).

200. The respondent had a slightly different interpretation of the post-hearing events. He testified that Andre had "switched to" Attorney Amy Wax after he had filed the notice of appeal, that she had emailed him for Andre's entire file, and that he had scanned it to her. Tr. 1:105, 107; Tr. 2:111 (Respondent). He was surprised to receive a "discharge letter" not from Attorney Wax, but from Attorney Celedon's office, saying that that office now represented Andre. Tr. 2:108 (Respondent). When Celedon requested the file, the respondent claims to have told the firm to get it from Attorney Wax, citing to us "ethical rules" about not talking to an attorney "when there is another attorney." Tr. 2:108-109 (Respondent).

201. Even if we were to credit the respondent's narrative, and without opining on his interpretation of the "ethical rules," we note that his testimony does not directly rebut the testimony that he did not respond to the Celedon request. In the end, we conclude that rather than ignoring the Celedon request, the respondent should promptly have clarified whether the Celedon firm was indeed representing Andre, at which point, after confirmation, the materials he admitted he had already scanned to Attorney Wax could have been promptly emailed to Celedon.

The respondent's decision to wait for months to send the file, ignoring at least an email and a phone call, when he must have known from his years of practice that there was a deadline looming, was not a reasonable approach to the readily-resolvable confusion he claimed to have had.

202. By letter dated February 23, 2022, Celedon Law filed with bar counsel, on Andre's behalf, a Complaint against the respondent. Ex. 13 (089). It included an unsigned, undated Statement of Facts, which ends abruptly, purportedly from Andre. Ex. 13 (091-092).

203. The Statement fleshes out much of what was testified to at the hearing and set out above. However, the Statement goes further, and alleges that at the hearing the respondent "presented little evidence, elicited cursory testimony on direct examination from the Complainant, and offered no supporting witnesses." Ex. 13, ¶ 7 (091). It also states that "[a]dditional supporting evidence, including proof of continuous presence in the United States and hardship to a family member, was readily available," and that Andre's "family members were available to provide testimony." Ex. 13, ¶ 8 (091). Because the Statement was unsigned and undated, we have not relied on it for the conclusions of law discussed below.

204. We received very little evidence about the merits of Andre's claims, and why they were denied. Successor counsel Phair testified that Andre's file was thin, while cancellation of removal requests are normally "massive." He added that "you'd expect to see a lot more evidence of hardship in a case brought before an immigration judge," but stated also that it was possible that "there wasn't a lot of hardship," and he admitted that some of his observations were "just conjecture." Tr. 2:88-91, 93 (Phair). The respondent did not mention hardship at all, citing a moral character issue.

CONCLUSIONS OF LAW – COUNT NINE

205. Bar counsel charged that by failing to present evidence at Andre's individual hearing that would have supported Andre's claims, by failing to communicate with Andre about the status of the case and the deadline for filing the appellate brief, by failing to respond to Andre's reasonable requests for information, and successor counsel's request for a copy of Andre's file, by unilaterally terminating the representation at a time and under circumstances in which such withdrawal threatened to result in material harm for Andre, by purporting to terminate the representation without obtaining prior leave of court to withdraw, and by failing to turn over Andre's file to him upon termination of the representation, the respondent violated Mass. R. Prof. C. 1.1, 1.3, 1.4(a)(3) and (4), 1.15A(b), 1.16(b) (circumstances for withdrawal if permission is not required, among them if it can be accomplished without material adverse effect to client's interests), 1.16(c) (if permission is required, do not withdraw without it), and 1.16(d) (upon termination of representation, take steps to extent reasonably practicable to protect client's interest and refund any advance payment of fees not earned).

206. We have summarized above the limited evidence we received as to whether the respondent's representation of Andre was competent. We are also hamstrung by the fact that bar counsel did not point to any particular standards to guide our decision. On this record, where we have an unsigned, undated statement and equivocal testimony from successor counsel, and where we have been given no context or law, we cannot find that bar counsel has proved that the respondent failed to present evidence at Andre's individual hearing that would have supported Andre's claims. We therefore reject the Rule 1.1 charge.

207. We also find that bar counsel has not proved whether the respondent needed leave to withdraw and failed to get it, or that he unilaterally terminated the representation so as to

threaten material harm. We received no evidence or legal standards on these points. We conclude that bar counsel did not prove violations of Rules 1.16(b) and 1.16(c).

208. Other than those unsupported charges, we agree that bar counsel has proved violations of Rules 1.3, 1.4(a)(3) and (4), 1.15A(b), and 1.16(d). See generally Matter of Merino, 30 Mass. Att'y Disc. R. 262 (2014) (stipulation to eighteen-month suspension for misconduct including abandoning law practice and at least fifteen immigration clients, necessitating the appointment of a commissioner, in violation of Rules 1.1, 1.2(a), 1.3, 1.4(a) and (b), 1.16(a), (d), and (e) and 8.4(d) and (h)).

COUNT TEN
(Eleoni and Anna Borges)
FINDINGS OF FACT

209. On March 10, 2020, Eleoni and Anna Borges engaged the respondent to represent them in an immigration case. Tr. 1:130 (Borges). Specifically, the respondent undertook to represent the Borgeses each in a Cancellation of Removal Application. Ex. 24. The respondent's fee agreement for these representations called for a total fee of $20,000, payable through a down payment of $5,000 each ($10,000 total) followed by a series of monthly payments. Ans. ¶ 162; Ex. 16 (096); Ex. 24 (148, 152). Paragraph 6 of each Fee Agreement provides: "If the legal fee has not been earned and the Attorney's representation terminates prior to the performance of the agreed-upon service, Attorney will provide client with a written accounting of the reasonable fees earned and out of pocklet [sic] costs incurred, and a refund of any unearned fees as determined by the attorney." Ex. 24 (148, 152).

210. During the course of the representation, in or around June 2021, the Borges' work permits expired. Therefore, in addition to the pending cancellation of removal, they asked the respondent to obtain a renewal of those permits. To do this, the respondent requested two money

orders of $495 each, plus a $195 administrative fee. Tr. 1:137 (Borges); see Ex. 20 (102-107). Eleoni and Anna paid the respondent these amounts. However, the respondent failed to deliver the work permits. Ex. 16 (096).

211. The Borgeses attempted to get in touch with the respondent to find out about the delay. They had paid all but the last $1,000 of the installment under their original fee arrangement with the respondent. Ex. 20 (107). Despite the fact that the respondent was still ostensibly representing them, had collected nearly all of the fees he had charged them up to that point, and had not yet applied for or delivered the promised work permits, the respondent failed to respond to the Borges' inquiries.

212. We credit the hearing testimony of Anna Borges to the effect that the respondent essentially disappeared as of December 2021. Tr. 1:135 (Borges). She tried to reach him by cell phone, text message and email, but he ignored her. Tr. 1:135, 144-145 (Borges). She clarified that the emails did not "bounce back" as undeliverable; she simply received no reply. Tr. 1:141-142 (Borges). She went to two of his offices, in Stoneham and Woburn, but the doors were closed. Tr. 1:135 (Borges).

213. A Master Calendar hearing on the Borges's matters had long been scheduled for March 10, 2022. Ex. 17. As the March 2022 court date approached, Anna continued to try to contact the respondent, reminding him in a February 14, 2022 email that they had heard nothing from him, and were feeling unprepared. Ex. 21. She wrote: "We cannot understand why you never answer us," and reminded him that they needed an attorney for the upcoming "COURT HEARING DAY." Id. (emphasis in original).

214. The respondent steadfastly ignored Anna. He testified before us that he was suspended as of the Borges' court date. Tr. 2:114 (Respondent). This is not true. The Board's

Memorandum of Decision, recommending a two-year suspension from practice, was dated January 10, 2022. As of March 10, 2022, all that had been issued was a Hearing Committee's September 27, 2021 Report and a Board Memorandum, both recommending suspension. These were not final. Only the SJC can suspend an attorney. We take administrative notice that under S.J.C. Rule 4:01, § 8(6), "[t]he Board shall file an Information whenever it shall determine that formal proceedings should be concluded by suspension or disbarment . . . ."

215. An Information was filed with the SJC on April 20, 2022. The Single Justice's decision, imposing a two-year suspension, was entered on August 9, 2022, and was effective thirty days later. See Matter of Maroun, supra, 38 Mass. Att'y Disc. R. at 309, 312; Affidavit of Melanie Manzanilla (Manzanilla Affidavit"), ¶ 4(e) (suspension effective September 8, 2022). We find as a matter of law that the respondent was not suspended from the practice of law until September 8, 2022.

216. As a result of the respondent's failure to respond, Anna had to hire another attorney, and pay him $16,000 for the relief she and her husband were seeking. Tr. 1:140, 148 (Borges). The respondent agreed that he did not finish the Borges' case, that he did not earn all the money he collected, and that he did not refund any money to them. Tr. 1:140 (Borges); Tr. 1:119, 121 (Respondent).

CONCLUSIONS OF LAW – COUNT TEN

217. Bar counsel charged that by failing to communicate with the Borgeses about the status of their case, by failing to respond to their reasonable requests for information, by failing to apply for the work permits or take steps to represent the Borgeses at their upcoming hearing, thus forcing them to retain new counsel, the respondent violated Mass. R. Prof. C. 1.2(a) (seek

lawful objectives of client through reasonable means), 1.3, and 1.4(a)(3) (keep client reasonably informed about status) and (4) (promptly comply with reasonable requests for information).

218. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

219. Bar counsel charged that by collecting over $20,000 to represent the Borgeses in their immigration case, including over $1,000 to obtain work permits, and thereafter neglecting and abandoning the representation without making any refund, the respondent violated Mass. R. Prof. C. 1.5(a), 1.16(d), 8.4(c), and 8.4(h).

220. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules. See also Matter of Maroun, supra, 38 Mass. Att'y Disc. R. at 314, 316 (finding 1.5(a) and 1.16(d) violations for failing to return unearned fees after termination of representation).

COUNT ELEVEN
(Loja Castro)
FINDINGS OF FACT

221. On September 30, 2019, Luz Mariuxi Loja Castro retained the respondent to represent her in an immigration matter. Ex. 27, Ex. 29. She needed assistance with a U visa, social security, and work permit. Ex. 27; Tr. 2:25 (Castro).

222. Pursuant to his fee agreement with Castro, the respondent charged a flat fee of $7,000, payable through a $2,000 down payment and monthly installments of $200 each. It is undisputed that she paid at least $6,600. Tr. 2:26-27 (Castro); Ex. 27, 28.

223. Beginning in or around January 2021, Castro sought to contact the respondent to discuss her case but found him to be inaccessible. Although Castro was able to speak with

certain of the respondent's "assistants" from time to time, she had no communication with the respondent after August 17, 2021. Ex. 27.

224. We credit that the respondent did not ever go to court with Castro. Tr. 2:27 (Castro). We credit that she went to the respondent's office, but it was not open and she could not find him. Tr. 2:28 (Castro).

225. Castro hired another attorney. Tr. 2:32 (Castro). The respondent did not answer his requests, and did not send the file to him. Tr. 2:32 (Castro). Castro has received no refund. Id. While the testimony as to whether the respondent was able to get Castro her U visa is unclear, we credit that Castro did not get the work permit or social security she had paid the respondent to secure. Tr. 2:37-39 (Castro). We credit that she has had to hire a new attorney who has "started everything all over again." Tr. 2:42 (Castro).

CONCLUSIONS OF LAW – COUNT ELEVEN

226. Bar counsel charged that by persistently failing to communicate with Castro as requested concerning the status of her legal matter, the respondent violated Mass. R. Prof. C. 1.4(a)(3) and (4).

227. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

COUNT TWELVE
(Ailton De Oliveira)
FINDINGS OF FACT

228. As of October 2021, the respondent had represented Ailton G. De Oliveira for five years in various immigration matters. During the course of such representation, the respondent used an office address of 91 Montvale Avenue, Stoneham, Massachusetts. Ans. ¶ 172

229. On October 1, 2021, De Oliveira retained the respondent to represent him in obtaining a renewal of his "Employer Authorization Card," Form I-765. Ex. 33 (172). In connection therewith, De Oliveira gave the respondent two checks: one in the amount of $400 and the other in the amount of $300. Ex. 34, 35. The respondent accepted the checks and deposited them both on October 1, 2021. Id.; Tr. 1:97 (Respondent).

230. At the time of this engagement, De Oliveira explained to the respondent that he needed his Employer Authorization Card renewed immediately, as he needed it to schedule his road test with the Registry of Motor Vehicles. See Ex. 33 (172).

231. After retaining the respondent on October 1, 2021, De Oliveira received no further word from him concerning the work permit or any other matter. During this period, De Oliveira also failed to receive any notification from USCIS indicating that an application for the work permit renewal had been filed or that any action had been taken on it. As a result, De Oliveira made numerous attempts to reach the respondent using the telephone number and email address that he had customarily used to communicate with him. These efforts to communicate with the respondent were uniformly unsuccessful. See Ex. 33.

232. At or around the time of the foregoing events, De Oliveira had a pending criminal matter in which he was being represented by Sandra Caldas Silva, Esq. Ex. 38. Silva sent an email to the respondent on December 3, 2021, noting that her client had not received communications from either the respondent or USCIS in the past two months, and requesting "a status update regarding [the client's] work authorization renewal." Ex. 38. She received no response. She tried again on December 8, 2021, but again received no response. Ex. 39.

233. On January 22, 2022, De Oliveira sent a letter directly to the respondent at his Montvale Avenue address to request the status of the matter and a copy of his client file. Ex. 33.

He told the respondent that the matter was one of "extreme urgency": since his current Employer Authorization Card was expired, he could not schedule his road test with the RMV, and his learner's permit was set to expire in June 2022. Ex. 33 (172). This letter was returned "unable to deliver." Ans. ¶ 177.

234. We find that De Oliveira did not receive from the respondent a copy of his client file or any refund of the fees he had paid the respondent to secure the work permit renewal. We do not credit the respondent's statement, in his Answer, that De Oliveira received a copy of his file on October 2, 2019. Ans. ¶ 179. Had this been true, De Oliveira would not have continued to write him, and would not have enlisted his second attorney to help him, to get his file. See Exs. 32, 33. By virtue of the respondent's failure to deny the allegation in ¶ 179 of the petition for discipline, to the effect that he failed to issue any refund, we deem that allegation admitted. See B.B.O. Rules, § 3.15(d).

CONCLUSIONS OF LAW – COUNT TWELVE

235. Bar counsel charged that by failing to respond to De Oliveira's and his lawyer Silva's reasonable requests for information and requests for the client file, the respondent violated Mass. R. Prof. C. 1.4(a)(3), 1.4(a)(4), and 1.15A(b).

236. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

237. Bar counsel charged that by neglecting and failing to follow through on his agreement to secure the requested work permit renewal on De Oliveira's behalf, the respondent violated Mass. R. Prof. C. 1.2(a) and 1.3.

238. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

239. Bar counsel charged that by charging and collecting from De Oliveira fees totaling $700 and then failing to make a refund thereof after he had essentially abandoned such representation, the respondent violated Mass. R. Prof. C. 1.5(a), 1.16(d), 8.4(c), and 8.4(h).

240. In light of the facts and case law set out above, we conclude that bar counsel has proved a violation of these rules.

COUNT THIRTEEN
(Non-Cooperation)
FINDINGS OF FACT

241. On April 6, 2022, bar counsel made written demand upon the respondent for his response to each of the four foregoing complaints by Muniz/Soriano (Exs. 5-6); Andre Salgado (Exs. 12-13); Borges (Exs. 15-16) and Castro (Exs. 26-27). More specifically, bar counsel sent four separate letters by email, each addressed to the respondent's then-registered email address with the BBO, gmaroun@marounlaw.com, requesting his position with respect to each of the complaints and asking for any relevant information and supporting documentation the bar counsel should consider in order to understand and assess his conduct relative to the subject matter of the complaint. Id.; see Manzanilla Affidavit, ¶ 4(c).

242. Each letter advised the respondent that a failure to respond to such request within twenty days may result in disciplinary action. Ex. 5 (073); Ex. 12 (087); Ex. 15 (094); Ex. 26 (156).

243. The respondent did not respond. He claimed (1) that he did not receive the letters because he had changed his email address; and (2) that he was told by an unnamed attorney that there was no need to respond. Tr. 1:71-72 (changed email address); Tr. 1:72, 74 (did not receive Ex. 5); Tr. 1:75 (did not receive Ex. 12); Tr. 1:77-78 (did not receive Ex. 15); Tr. 1:89-90 (did

not receive complaints concerning clients in Counts 8-11); Tr. 1:74-75 (was told by an attorney he did not have to respond).

244. Among the admitted exhibits are receipt-like documents purporting to show that the respondent in fact received these four letters. Ex. 11 (Muniz/Soriano, Count Eight clients); Ex. 14 (Salgado, Count Nine client); Ex. 25 (Borges, Count Ten clients); Ex. 30 (Castro, Count Eleven client).

245. To explain these documents, we heard testimony from Justin Seggelin, a BBO employee responsible for the BBO's information systems, networks, and applications. Tr. 2:7, 8-10, 14-16 (Seggelin) (explaining generally how to tell from receipt whether and when documents were opened and downloaded). Having reviewed Seggelin's testimony in light of the documents, we find that the respondent received all four documents. Our conclusion is underscored by the respondent's own testimony that he was told by an attorney he did not have to respond to bar counsel. There would have been no need to solicit such advice unless he had received something demanding his attention.

246. In reaching the conclusion that the respondent received bar counsel's letters, we have also taken into account the Affidavit of Melanie Manzanilla, Superintendent of the BBO's Registration Department. This Affidavit clarifies the respondent's whereabouts and registration requests in the period from January 2019 to January 2023.

247. On August 2, 2021, for the first time since 2015, the respondent amended his contact information, changing his registered office address from 91 Montvale Avenue, Stoneham, MA to 115 Indian Rock Road, Windham, NH. Manzanilla Aff., ¶ 4(a) and (b).

248. He made no change to his phone number or primary email address, which remained gmaroun@marounlaw.com. Id. at ¶ 4(c) and (d).

249. S.J.C. Rule 4:02(1), at all relevant times in 2022, provided, in pertinent part, that in addition to the requirement of annually filing a registration statement with the Board, including current residence and office addresses and a business email address, "every attorney shall file a supplemental statement of any change in the information previously submitted, including residential address, office address, and business email address, within fourteen days of such change."

250. The respondent admitted at the hearing that it was his responsibility to have the correct email address on file with the BBO. Tr. 1:76-77 (Respondent).

251. As a factual matter, we found above that the respondent received bar counsel's four April 6, 2022 letters. As a legal matter, we deem them received, based on the respondent's failure effectively to change his email address during the relevant time period, and his admission that he knew it was his burden to do so.

252. On May 23, 2022, bar counsel made written demand upon the respondent for his response to De Oliveira's complaint. More specifically, bar counsel sent a letter by email, addressed to the respondent's then-registered email address with the BBO, as well as to two additional email addresses: gcmaroun@gmail.com and marounlawgroup@gmail.com, requesting his position with respect to the complaint and asking for any relevant information and supporting documentation bar counsel should consider. Ex. 31. The letter advised the respondent that a failure to respond to such request within twenty days may result in disciplinary action. We find that the respondent received the letter in the ordinary course. See Ex. 40; Tr. 1:89-91 (Respondent); Tr. 2:11-12 (Seggelin).

253. Although he admitted to having received the De Oliviera letter, the respondent did not reply to it or to bar counsel's letters of April 26. Tr. 1:89-91 (Respondent). To the extent he

claims that he did not realize a response was necessary, see Tr. 1:74 (Respondent), we reject this testimony as wholly inconsistent with the letters' clear mandates. To the extent he claims that he relied on legal advice that no response was necessary, reliance on the advice of counsel is not a defense to a charge of unethical conduct. Matter of Hilson, 448 Mass. 603, 616, 23 Mass. Att'y Disc. R. 269, 285 (2007); Matter of Lupo, 447 Mass. 345, 357, 22 Mass. Att'y Disc. R. 513, 531 (2006). In any event, the respondent did not provide any admissible evidence regarding the advice he claims to have received.

CONCLUSIONS OF LAW – COUNT THIRTEEN

254. Bar counsel charged that by knowingly failing without good cause to cooperate with bar counsel's investigation, the respondent violated Mass. R. Prof. C. 8.1(b) (in connection with a disciplinary matter, do not fail to respond to a lawful demand for information), 8.4(d) and 8.4(g) (do not fail without good cause to cooperate with bar counsel) and S.J.C. Rule 4:01, § 3(1).

255. We conclude that bar counsel has proved a violation of these rules. See Matter of Prado, 24 Mass. Att'y Disc. R. 568 (2008) (finding violation of numerous rules, among them Rules 8.1(b), 8.4(d), 8.4(d) and 8.4(h), where, in three immigration matters, lawyer did not file necessary materials, did not maintain reasonable communication with clients, did not provide clients files and fees upon termination, and failed without good cause to cooperate with bar counsel's investigation).

Mitigation

256. The respondent argued nothing in mitigation in his Answer. At the hearing he mentioned his wife's newly-diagnosed illness, and a disabled child, but he made no attempt to tie these, temporally or otherwise, to his misconduct.

257. The respondent also alluded to a "perfect storm" of difficult events, beginning in 2019, and mentioned feelings of depression, and thoughts of suicide. Tr. 2:109-110 (Respondent). While we credit respondent's testimony regarding his emotional state, these passing references are not sufficient to prove any sort of disability or illness caused the respondent's misconduct. See generally Matter of Ablitt, 486 Mass. 1011, 1018, 37 Mass. Att'y Disc. R. 1, 15 (2021) (lawyer did not show causal connection between claimed mitigating factor and misconduct); Matter of Zankowski, 487 Mass. 140, 152, 37 Mass. Att'y Disc. R. 554, 569 (2021) (same).

258. By way of defense, the respondent stated several times that the clients in Counts One through Six had received something of value in exchange for their testimony, implying that they were opportunistic and not forthright. Tr. 1:25, 2:108-109 (Respondent). Even if this credibility argument were not foreclosed by the Order on Issue Preclusion, we conclude that the respondent did not carry his burden to prove it. See BBO Rules, Sec. 3.28 (burden on respondent to prove affirmative defenses and mitigation); Matter of Zankowski, supra, 487 Mass. at 149, 37 Mass. Att'y Disc. R. at 565 (adverse inference warranted "from the respondent's failure to offer materials, readily available . . . , that would presumably support her version of the facts if true").

Aggravation

259. The respondent is an experienced attorney. Our case law treats experience as an aggravating factor. Matter of Moran, 479 Mass. 1016, 1022, 34 Mass. Att'y Disc. R. 376, 387 (2018); Matter of Luongo, 416 Mass. 308, 312, 9 Mass. Att'y Disc. R. 199, 203 (1993). We agree that this is a factor in aggravation.

260. The respondent violated numerous disciplinary rules. This is a recognized factor in aggravation. E.g., Matter of Strauss, 479 Mass. 294, 302, 34 Mass. Att'y Disc. R. 522, 531 (2018); Matter of Saab, 406 Mass. 315, 326-327, 6 Mass. Att'y Disc. R. 278, 289-290 (1989).

261. The respondent's conduct was motivated by an interest to benefit himself personally at the expense of his clients, a long-recognized factor in aggravation. Matter of Pike, 408 Mass. 740, 745, 6 Mass. Att'y Disc. R. 256, 261-262 (1990). Particularly as to the clients described in Counts One through Six, the respondent did not explain to each the benefits and risks of the course of action he proposed. Instead, the respondent adopted a cookie-cutter approach, charging substantial fees to his clients for asylum relief they had not sought, and exposing them to risks they were not informed about and had not consented to. We agree with Judge Barry-Smith that the respondent "concealed material information from unsophisticated clients to obtain legal fees that he likely would not have received had he explained to [his] clients his actual intentions." Ex. 2 (056).

262. The respondent's focus on obtaining a fee irrespective of his clients' best interests was quite troubling, particularly because, in many cases, his process left his clients worse off than when they came to him for help. See Matter of Greene, 476 Mass. 1006, 1010, 32 Mass. Att'y Disc. R. 254, 260 (2016) (attorney motivated by a desire to benefit himself, and engaged in transactions with homeowners "on terms highly unfavorable to them"); Matter of Pike, supra, 408 Mass. at 745, 6 Mass. Att'y Disc. R. at 261-262 (attorney "acted deliberately for his own benefit and in disregard of his client's interests [and] the client was prejudiced as a result of the attorney's unethical conduct").

263. The respondent blamed others for his misconduct. This began with his opening statement, and continued with his narrative testimony, where he insisted he had been made an

"example" of and "persecuted," when "everybody else was doing the exact same thing." Tr. 1:25-26; 2:108 (Respondent). In response to the charge that he had ignored a request from the Celedon firm to send them the Andre Salgado file, he blamed Attorney Wax for not telling him she no longer represented the client. Tr. 1:108, see 2:111 (Respondent). In response to Anna Borges' claim that he did not respond to her texts, calls and emails, he suggested she knew where he lived and should have come to his house. Tr. 1:145 (Respondent). He claimed bar counsel's emails to him were sent to "another email address," suggesting that bar counsel was to blame for using the only email address the respondent had ever had on file with the BBO. Tr. 2:110 (Respondent); Manzanilla Affidavit, ¶ 4(a). Blaming others is an aggravating factor. Matter of Cobb, 445 Mass. 452, 480, 21 Mass. Att'y Disc. R. 93, 126 (2005).

264. The respondent took advantage of vulnerable clients. While we cannot conclude on this record that his clients were all unsophisticated, compare Bar Counsel's PFCs at ¶ 212, they certainly were vulnerable. All or nearly all of the clients referenced in the petition for discipline were facing potential deportation, or needed help to remain in or work legally in the United States. Taking advantage of the vulnerable is a factor in aggravation. Matter of Zak, 476 Mass. 1034, 1041, 33 Mass. Att'y Disc. R. 521, 533 (2017); Matter of Cammarano, 29 Mass. Att'y Disc. R. 82 (2013) (indefinite suspension for misconduct in five immigration matters, where lawyer did not file proper documents, misrepresented status to clients, refused to refund fees, blamed his associate for misconduct, and took advantage of particularly vulnerable clients).

265. The respondent was not candid before us. To justify his lack of responsiveness, he repeatedly cited his inability to practice or his suspension from practice, e.g., Tr. 1:101, Tr. 2:108-109 (Respondent) but as we discussed above, see ¶¶ 214, 215, he was not actually suspended until September 8, 2022. The testimony was, at best, disingenuous. In any event, the

respondent's testimony that he "felt" he was suspended was irrelevant because his state of mind does not change the fact that by operation of law, his suspension was not effective until thirty days after the Single Justice's Order was entered. S.J.C. Rule 4:01, § 17(3).

266. Nothing in Judge Barry-Smith's March 18, 2022 Findings of Fact and Conclusions of Law prohibited the respondent from practicing immigration law in the Commonwealth. Judge Barry-Smith specifically found that "the Supreme Judicial Court and the Board of Bar Overseers are better positioned to determine whether, and how, [the respondent's] practice of law should be restricted." Ex. 2 (065). Instead, he entered "a permanent injunction that is tied to the unfair or deceptive conduct proven at trial," most of which was connected to the fraudulent, inaccurate and baseless asylum applications. Ex. 2 (065, 066-067).

267. We find that the lack of candor we have described is a factor in aggravation. See Matter of Hoicka, 442 Mass. 1004, 1006, 20 Mass. Att'y Disc. R. 239, 243 (2004) (lack of candor/intent to deceive is a factor in aggravation).

268. The respondent has been disciplined before. Matter of Maroun, supra, 38 Mass. Att'y Disc. R. 313 (2022) (misconduct in two immigration matters, including failure to confer with client in preparation of affidavit, false statements and false notarization and failure to prosecute appeal, and failure to return unearned fee). Prior discipline, even if unrelated, is always a "substantial factor" in choosing a sanction. Matter of Dawkins, 412 Mass. 90, 96, 8 Mass. Att'y Disc. R. 64, 71 (1992). Related misconduct, as featured here, is deeply probative. See Matter of Long, 33 Mass. Att'y Disc. R. 275, 283 (2017) (Single Justice observes that it is "impossible not to conclude that the respondent appears to have learned very little from the prior discipline he has received").

269. We find that the respondent caused harm to his former clients. As to the clients in Counts One through Six, we find that his actions harmed their legal interests, increasing their visibility to USCIS and their risk of deportation. As discussed above, Miranda, the Count Four client, was facing deportation and was led to believe the respondent could avert this. Other clients, Borges and Castro among them, had to pay other lawyers to get them the relief for which they had engaged and paid the respondent. De Olivera was charged fees for work the respondent did not perform. The respondent has not reimbursed any of his former clients. We agree that bar counsel has proved harm to clients, a factor in aggravation. Matter of Aufiero, 13 Mass. Att'y Disc. R. 6, 25 (1997).

270. In addition to the legal and financial harm set out above, the respondent's actions subjected his clients to intangible but very real harm, such as fear and confusion, when they were unable to reach him, get their files, or get information about upcoming court dates.

271. We also find that the respondent caused harm to the administration of justice. His conduct reflects poorly on the legal profession as a whole. See generally Matter of Foley, 439 Mass. 324, 337, 19 Mass. Att'y Disc. R. 141, 156 (2003) (finding harm from effect of lawyer's conduct "on the profession and the public's confidence in its integrity"); Matter of Goodman, 22 Mass. Att'y Disc. R. 352, 366 (2006) ("misconduct constitutes harm to the profession in the dishonor it brings to all of us in the eyes of the public.").

272. In his closing argument, bar counsel alluded to publicity as a factor in aggravation. Tr. 2:131-133 (Bar Counsel). He did not pursue this in his PFCs. We credit that the respondent was subjected to adverse publicity around the time of the Superior Court trial in October and November of 2021, and in the period immediately after March 18, 2022, when the decision was issued. See Tr. 2:108-110 (Respondent). However, we do not agree that in this case

the mere existence of former publicity is an aggravating factor. As we will discuss in more detail below, each case "must be decided on its own merits and every offending attorney must receive the disposition most appropriate in the circumstances." Matter of Zankowski, supra, 487 Mass. at 149, 37 Mass. Att'y Disc. R. at 566. We agree that there should be a disciplinary response to the respondent's misconduct, and that we should preserve the integrity of the bar by responding to the misconduct with a significant sanction. We are doing precisely that. We see no need to further enhance the appropriate sanction to reflect former publicity.

Recommended Disposition

In recommending a sanction, we are guided by the mandate that "[e]ach bar discipline case is decided on its own merits. . . ." Matter of Zankowski, supra, 487 Mass. at 149, 37 Mass. Att'y Disc. R. at 566. "[E]ach attorney receives the discipline that is 'most appropriate in the circumstances,' taking into account 'what measure of discipline is necessary to protect the public and deter other attorneys from the same behavior.'" Id. (citations omitted). It goes without saying that we will not find a case precisely like this one, but certain themes are reflected in the case law, and we are attuned to the rule that our recommendation should not be "'markedly disparate' from judgments in comparable cases." Matter of Foster, supra, 492 Mass. at 746, 39 Mass. Att'y Disc. R. at __ (citation omitted).

We have described above a litany of misconduct that spanned years, and we have found scores of rule violations. While we think the whole of the respondent's misconduct is greater than the sum of its parts, we note that if all we had found were the numerous Rule 3.3 violations, his conduct would still warrant significant sanction. The presumptive sanction for making a knowingly false statement of fact or law to a tribunal is a license suspension of one year. See Matter of Neitlich, 413 Mass. 416, 8 Mass. Att'y Disc. R. 167 (1992) (attorney perpetuated a

fraud on court and opposing counsel by misrepresenting the terms of a sale of real property); Matter of McCarthy, 416 Mass. 423, 9 Mass. Att'y Disc. R. 225 (1993) (attorney elicited false testimony and offered false documents in proceeding before rent control board); Matter of Macero, supra; Matter of Goodman, supra. This is because submitting false evidence to a court is a grave offense. Courts and litigants must be able to rely on the statements presented to them. As officers of the court, attorneys have a singular obligation to maintain the integrity of the judicial system. See Mass. R. Prof. C. 3.3, comment [2]. This responsibility must not be disdained, as the respondent did here in repeated filings.

Abandoning a law practice is also grave misconduct and, as reflected in the case law, is sanctioned significantly. See Matter of Anderson, 36 Mass. Att'y Disc. R. 58 (2020) (year-and-a-day suspension, by default, for abandoning practice without taking steps to protect clients; lawyer did not return files, refund unearned fees, or advise the clients to seek other counsel; she vacated her law office and stopped responding to inquiries, and did not cooperate with bar counsel); Matter of Merino, supra (eighteen-month suspension, by stipulation, for abandoning practice and at least fifteen immigration clients, without notice, necessitating the appointment of a commissioner, and failure to cooperate with bar counsel); Matter of Pomeroy, supra (year-and-a-day suspension, by stipulation, for immigration attorney who abandoned practice and stopped communicating with clients; did not return fees; did not cooperate with bar counsel; aggravated by earlier admonition and mitigated by depression).

The numerous instances of neglect, causing harm, would also warrant a term suspension. See generally Matter of Grayer, 483 Mass. 1013, 1018-1019, 35 Mass. Att'y Disc. R. 231, 241 (2019) (year-and-a-day suspension for misconduct in five matters, including lack of competence and neglect, and failure to cooperate with bar counsel); Matter of Kane, 13 Mass. Att'y Disc. R.

321, 328 (1997) (suspension appropriate for repeated failures to act with diligence, causing serious or potentially serious injury).

Even before we add in the aggravation, it is impossible to avoid the conclusion that the respondent's conduct warrants a heavy sanction, at least an indefinite suspension. See Matter of Greene, supra, 476 Mass. at 1010, 32 Mass. Att'y Disc. R. at 261 (indefinite suspension where two out of multiple rule violations call for term suspension); Matter of Luongo, 416 Mass. 308, 312, 9 Mass. Att'y Disc. R. 199, 203 (1993) (indefinite suspension appropriate where multiple rule violations, "two of which standing alone call for a suspension, make our conclusion unavoidable"). And the aggravating factors here are considerable. We are especially troubled by the similarity of the respondent's conduct here to the prior misconduct described in Matter of Maroun, discussed above, underscoring the respondent's manifest and prolonged inability to conform his conduct to basic professional norms. Compounding this is the troubling self-interest we have found, and the significant, outstanding harm to former clients and the public.

Our disciplinary rules exist "to protect the public and maintain its confidence in the integrity of the bar and the fairness and impartiality of our legal system." Matter of Curry, 450 Mass. 503, 520-521, 24 Mass. Att'y Disc. R. 188, 211 (2008). "Without the public's trust that lawyers . . . act in good faith and strictly within the bounds of our laws and professional norms, the rule of law has little practical force." Matter of Curry, supra, 450 Mass. at 521, 24 Mass. Att'y Disc. R. at 211-212.

Accordingly, we recommend disbarment. This seems to us the most appropriate recommendation, whether we individually examine and tote up all the misconduct as enumerated above, or instead look for guidance to case law taking a more comprehensive approach. E.g., Matter of Foster, supra, 492 Mass. at 770, 39 Mass. Att'y Disc. R. at __ (disbarment warranted

for prosecutor "[d]ue to the gravity of the harm, the multitude of serious aggravating factors, and the lack of any mitigating factors"); Matter of Zak, supra, 476 Mass. at 1038-1039, 33 Mass. Att'y Disc. R. at 529 (lawyer disbarred for "repeated and multiple ethical violations in connection with loan modification and mortgage foreclosure cases over a number of years," Court noting that while violation of many of the disciplinary rules might not warrant a significant sanction, relevant inquiry is the 'effect of the several violations committed by the respondent'"); Matter of Crossen, 450 Mass. 533, 574, 24 Mass. Att'y Disc. R. 122, 172-173 (2008) (Court rejects lawyer's attempt "to disaggregate' pattern of misconduct and argue for lesser sanction, concluding that "[c]umulative and wide-ranging misconduct may warrant the sanction of disbarment, even if the individual instances of unethical conduct would not warrant so severe a sanction").

Conclusion

For the reasons stated above, we recommend that the respondent, George Maroun, Jr., be disbarred.

Dated: October 21, 2024

Respectfully submitted,
By the Hearing Committee

Brian E. Whiteley
Brian E. Whiteley, Esq., Chair

Neal R. Goins
Neal R. Goins, Ph.D., Member

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