

ORIGINAL

**The Supreme Court of Ohio**  
**BEFORE THE BOARD ON THE UNAUTHORIZED PRACTICE OF LAW**

DISCIPLINARY COUNSEL,

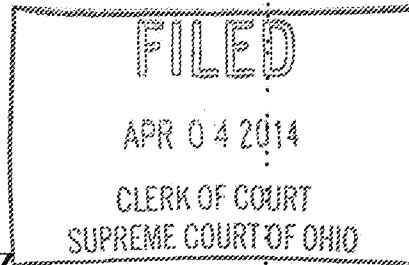
14-0517

RELATOR,

v.

MARY E. HERNANDEZ,

RESPONDENT.



Case UPL 13-02  
**FINAL REPORT**

**I. INTRODUCTION**

This matter was presented to the Board on the Unauthorized Practice of Law ("Board") on March 26, 2014, on a panel report finding that Mary E. Hernandez of Cincinnati ("Hernandez" or "Respondent"), engaged in the unauthorized practice of law by distributing business cards advertising "Hernandez Law" and providing legal services to an individual regarding an immigration matter. After discussion, the panel report was approved as amended by the Board. The complaint, filed by the Office of Disciplinary Counsel ("Relator"), was not answered by Respondent. Relator filed a motion for default, which was granted by the panel.

In the complaint, Relator indicates that Miguel Galan-Rubio, an undocumented individual in the U.S., picked up one of Respondent's business cards at Mi Tierra, a Hispanic grocery store. The card indicated Hernandez Law handled criminal, family, juvenile, and immigration and that she spoke Spanish. Mr. Galan-Rubio contacted Hernandez for assistance with his immigration case. During the first meeting with Galan-

Rubio, Respondent indicated this would be an easy case for her, and informed him she had a relationship with a high level employee of the U.S. Citizenship and Immigration Services in California who could assist with the processing of his case for a fee. Respondent also informed Galan-Rubio she knew an immigration judge, the Governor of Ohio, and an Ohio senator. Respondent advised Galan-Rubio that he did not need to attend his hearing scheduled on March 16, 2011, as she had spoken to the judge and her contacts, and that everything was “fine”. Respondent requested that Galan-Rubio pay her certain fees that she would in turn forward to the judge and the high level employee. Galan-Rubio paid Respondent over \$2,000 for her services.

Upon review of the record, the panel appointed to hear this matter recommended that the Board find that Respondent engaged in the unauthorized practice of law and a civil penalty of \$15,000 be imposed, including a \$10,000 penalty for the legal services she performed for Galan-Rubio and a \$5,000 penalty for holding herself out as authorized to practice law under the name “Hernandez Law”. The Board adopted the panel’s recommendation, with the amendment that the Respondent also be ordered to pay restitution. In its motion for default, Relator provided extensive evidence regarding Respondent’s conduct, including recorded telephone conversations between Respondent and Galan-Rubio, video footage, and reports from investigators from the Office of Inspector General – U.S. Department of Homeland Security.

## **II. PROCEDURAL BACKGROUND**

The Complaint was filed in this matter on June 11, 2013. Respondent was served with a copy of the Complaint, along with the Notice to Respondent of Filing of Complaint, which informed her she had twenty days within which to file an Answer. The

Complaint and Notice were sent by certified mail to Respondent on June 12, 2013, and a return receipt was received by the Board on June 19, 2013. The Respondent did not file an Answer.

The Entry appointing the panel and Case Scheduling Order were sent by certified mail to the parties. Respondent's mail was returned as "unclaimed" on July 30, 2013, and was re-sent the same day by regular mail, as evidenced by a Certificate of Mailing. That mailing was not returned, so service is deemed complete. Respondent has not contacted the Board regarding any of the Entries or Notices sent to her.

The Relator filed a Motion for Default on November 6, 2013, with a certificate of service indicating Respondent was served by regular mail. Respondent did not file any response or objections. On January 31, 2014, the panel granted the Relator's motion for default.

### **III. FINDINGS OF FACT**

The Board finds the following facts significant and persuasive.

1. Relator, Disciplinary Counsel, is duly authorized under Gov. Bar R. VII, Sec. 4 to investigate and prosecute activities which may constitute the unauthorized practice of law in the state of Ohio.
2. Respondent, Mary E. Hernandez, is not admitted to the practice of law in the State of Ohio, nor is she admitted to the practice of law in any other state. (Ex. 1; *See* Ex. 2.) Respondent is also not registered or certified to practice law pursuant to any provision of the Supreme Court Rules for the Government of the Bar of Ohio. Hernandez told Miguel Galan-Rubio she was admitted to the practice of law in Ohio, Kentucky, and Indiana. (Ex. 14 ¶ 9.)

3. The Complaint was filed in this matter on June 11, 2013. Respondent was served with a copy of the Complaint, along with the Notice to Respondent of Filing of Complaint, which informed her she had twenty days within which to file an Answer. The Complaint and Notice were sent by certified mail to Respondent on June 12, 2013, and a return receipt was received by the Board on June 19, 2013.
4. To date, Respondent has not filed an Answer to the Complaint.
5. Relator's investigation began on or about September 29, 2011, when relator received a letter from Homeland Security Agent, John Tiano, regarding an investigation that the Office of Inspector General (OIG) was conducting. (Ex. 6.) The predicate of the OIG's investigation was respondent's "representation" of Miguel Galan-Rubio; however, the focus of the OIG's investigation was whether two federal employees, Yolanda Villalovas and Judge Thomas Janas, had accepted bribes from respondent in exchange for taking favorable actions in Galan-Rubio's case. (Ex. 7)
6. In or about January 2012, the OIG concluded their investigation with the finding that that the federal employees had not engaged in any misconduct. *Id.* Thereafter, the OIG provided relator with materials from their investigative file, including but not limited to documents obtained during the course of their investigation, video and audio recordings of meetings/phone calls with respondent, and notes pertaining to their investigation.
7. On November 28, 2012, relator sent respondent a Letter of Inquiry via certified mail. (Ex. 8.) Respondent personally signed for this letter on December 6, 2012. *Id.* On December 7, 2012, respondent called relator's office and left a voicemail message. (Ex. 9.) In her message, respondent stated that she had received relator's Letter of

Inquiry, but that she was currently experiencing several different health problems. *Id.* Respondent stated that she would have her daughter call back to discuss the matter further. *Id.* To date, relator has not received any phone calls from anyone claiming to be respondent's daughter, nor has relator received a response to the Letter of Inquiry. (Ex. 2; Ex. 9.)

8. Having received no further information from respondent, relator decided to file a formal complaint against respondent alleging that respondent had engaged in the unauthorized practice of law. On May 22, 2013, relator's investigator hand-delivered a draft copy of the complaint to respondent. (Ex. 10.) On that same day, respondent called relator's office and spoke to relator's counsel. (Ex. 2.) Respondent denied most of the allegations in the complaint and attempted to explain her conduct including, but not limited to, stating that her father had ordered business cards for her for when she finished law school. *Id.* Relator's counsel advised respondent that she would have a full opportunity to explain her conduct and/or defend herself; however, she had to follow the proper channels, i.e. providing a response to the draft complaint and filing an answer to the formal complaint if and when she was served with a formal complaint by the board. *Id.* Respondent then stated that she would be discussing the matter with her husband's immigration attorney because "he knew everything" that she did. *Id.* To date, relator has never been contacted by anyone claiming to be respondent's attorney, nor has relator received any type of written response to the allegations contained in the draft complaint. *Id.*

9. Respondent reported she is attending law school, and when asked what law school she attended, she indicated she attended Beckfield. Respondent then stated it is not a

law school, and she is studying to become a paralegal, but “plans to push herself much further”. (Ex. 2 ¶ 12.)

10. On August 2, 2013, an initial status call was held in this matter. (Ex. 11.) Prior to this call, the board had made attempts to notify respondent of the date and time of the call. *Id.* Despite the board’s attempts, respondent did not participate in the call. *Id.*

11. On September 12, 2013, relator’s counsel sent respondent a letter via regular and certified mail, which indicated that relator would be filing a Motion for Default Judgment on or before September 30, 2013 and that if respondent wished to participate in the matter, she should contact the board immediately. (Ex. 12.) The certified copy of this letter was returned to relator; however, to the best of relator’s knowledge, respondent received the regular mail copy of the letter. Nevertheless, on October 24, 2013, relator sent another letter to respondent advising respondent of relator’s intent to file a Motion for Default Judgment. (Ex. 13.)

12. By this time, relator had requested an extension of time until November 25, 2013 to file the Motion for Default Judgment. The Panel granted such extension of time.

13. To date, relator has not been contacted by respondent, nor has relator been advised that respondent attempted to contact the board. (Ex. 2.)

**Legal Services performed for Miguel Galan-Rubio (“Hernandez Law”)**

14. In late January or early February 2011, Miguel Galan-Rubio picked up respondent’s business card at Mi Tier[r]a, a local Hispanic grocery store. (Ex. 14.) Respondent’s business card indicated that she worked for “Hernandez Law,” which purportedly focused on “criminal, family, juvenile, and immigration” law and indicated she spoke Spanish (“Habla Español”). (Ex. 14; Ex. 15.)

15. Galan-Rubio entered the United States illegally in or about 1999 and is facing possible deportation from the United States. (Ex. 14.) Because Galan-Rubio has a family and three young children who are U.S. citizens, Galan-Rubio contacted respondent for assistance with his immigration matters. *Id.* At the time he contacted respondent, Galan-Rubio's next court date was scheduled for March 16, 2011 in the United States Immigration Court (Cleveland, Ohio), Case No. A088-922-285. *Id.*

16. Sometime during late January 2011 or early February 2011, Galan-Rubio met with respondent about his immigration case. During this meeting, respondent reviewed Galan-Rubio's immigration documents and informed Galan-Rubio that it would be an "easy" case for her. *Id.* Respondent also informed Galan-Rubio that she had a personal relationship with an individual named Yolanda Villalovos -- a "high level" employee with the United States Citizenship and Immigration Service (USCIS) in California. *Id.* She stated that Villalovos had assisted her with several cases and would assist her with this case for a fee. *Id.* Respondent also told Galan-Rubio that she had a personal and direct contact with Immigration Judge Thomas Janas, the Governor of Ohio, and an Ohio senator. *Id.* Respondent implied that these individuals could also assist her with Galan-Rubio's case. At the time, Galan-Rubio's case was pending before Judge Janas.

17. Over the next few weeks, respondent and Galan-Rubio spoke regularly by phone. During these conversations, respondent advised Galan-Rubio that she had spoken to Judge Janas and Villalovos about Galan-Rubio's case and that everything was "fine." *Id.* She also advised him that he did not need to appear for his March 16, 2011 court date. *Id.* During these conversations, respondent asked Galan-Rubio to pay certain fees,

which she claimed would be forwarded to Judge Janas and Villalovas for their services.

*Id.* Galan-Rubio paid respondent the following amounts:

- a. \$500 on February 4, 2011 for “immigration paperwork;”
- b. \$500 on February 11, 2011 for “immigration paperwork;”
- c. \$550 on February 20, 2011 for “court cost suspension deportation;” (sic)  
and
- d. \$500 on February 20, 2011 for “lawyer fee immigration.” (Ex. 16; Ex.  
17.)

18. During February 2011, respondent also met with Galan-Rubio several times.

During these meetings, respondent presented Galan-Rubio with several documents that she prepared, filed, sent, or received on his behalf. These documents included, but were not limited to, the following:

- a. A letter, dated February 7, 2011, to Judge Thomas Janas (spelled Janise)  
asking that her “client,” Galan-Rubio, not be removed from the United States;
- b. A letter, dated February 8, 2011, to Yolanda Villalovos, stating that  
respondent has a “client” that needs Villalovos’ help “in the worst way;”
- c. A letter, dated February 10, 2011, purportedly from Judge Janas (spelled  
Janise), stating that he had received Galan-Rubio’s papers and that he would  
be in contact with respondent regarding Galan-Rubio’s case;
- d. A letter, dated February 18, 2011, from respondent to Galan-Rubio containing  
a breakdown of respondent’s fees and stating that she was Galan-Rubio’s  
lawyer;



- e. A letter, dated February 26, 2011, to Judge Janas (spelled Jansa) asking whether Galan-Rubio needed to appear in court on March 16, 2011 or whether “this problem” could be resolved out of court; and
- f. An I-485 form (Application to Register Permanent Residence of Adjust Status) that respondent prepared on behalf of Galan-Rubio. (Exs. 18-23.)

19. By late February 2011, Galan-Rubio had become suspicious of respondent. For example, Galan-Rubio had asked respondent for proof that he did not need to appear for his March 16, 2011 court date, but respondent stated she would not have that information for a few more days. (Ex. 14.) Galan-Rubio also asked respondent for proof that she was an attorney, but respondent stated that she did not have that information available because she had recently moved. *Id.*

20. On or about February 28, 2011, Galan-Rubio contacted the immigration court directly to determine the status of his March 16, 2011 court date. *Id.* He was advised that the court date had not been canceled and that it was still scheduled for March 16, 2011. *Id.* On or about March 1, 2011, Galan-Rubio retained Attorney Marilyn Zayas-Davis to represent him in his immigration matters. *Id.* Thereafter, Attorney Zayas-Davis made arrangements for an attorney, Jennifer Payton, to appear at immigration court on behalf of Galan-Rubio on March 16, 2011. (Ex. 25.)

**Investigation of Judge Janas and Yolanda Villalovas by Department of Homeland Security – Office of Inspector General**

21. Attorney Zayas-Davis also notified numerous agencies, including the Department of Homeland Security – Office of Inspector General (OIG), of respondent’s actions. *Id.*

As noted above, the OIG initiated an investigation in or about March 2011 to determine whether any federal employees had engaged in misconduct. (Ex. 7.)

22. On March 24, 2011 and with Galan-Rubio's consent, the OIG monitored a telephone call between Galan-Rubio and respondent. (Ex. 7; Ex. 26.) During this call, respondent stated she had completed all of the necessary paperwork for Galan-Rubio and had spoken to Judge Janas several times about Galan-Rubio's proceedings. *Id.* During the aforementioned call, respondent also requested another \$600 from Galan-Rubio, which she stated was for Judge Janas to "finish up" the case. *Id.*

23. On March 30, 2011 and with Galan-Rubio's consent, the OIG taped a meeting between Galan-Rubio and respondent. (Ex. 7; Ex. 27.) The OIG had provided Galan-Rubio with \$600 in government funds which he gave to respondent during the meeting. (Ex. 28.) Respondent reiterated that the money was for Judge Janas, and she gave Galan-Rubio a letter, dated February 21, 2011, purportedly signed by Judge Janas, which indicated that Judge Janas had received a total of \$1,550 from respondent. (Ex. 29.) During the meeting, respondent told Galan-Rubio, "Yolanda knows what's going on. I done told her about the circumstances....She's just waiting for the money, and that's it. But she said she's not going to push me like this judge is. This judge is something else, I'll tell ya." (Ex. 7C, ch. 1 at 26:22-26:54.)

24. On April 6, 2011 and with Galan-Rubio's consent, the OIG monitored a telephone call between Galan-Rubio and respondent. (Ex. 7; Ex. 30.) Respondent again stated she had spoken to Judge Janas and that Galan-Rubio did not have to attend any court proceedings. *Id.* During this call, respondent told Galan-Rubio not to call the court

directly because Judge Janas had already “taken care of everything.” *Id.* Respondent then requested more money from Galan-Rubio for her services as his “lawyer.” *Id.*

25. The April 6, 2011 phone call was the last time that Galan-Rubio spoke to or met with respondent; however, respondent continued to contact Galan-Rubio regarding “fees” that he owed. (Ex. 14.) On or about April 30, 2011, respondent sent Galan-Rubio a letter stating that he needed to pay her \$2,500 or she would file “papers at the courthouse...for nonpayment.” (Ex. 31.) The letter further stated that if she had to file “papers” against him, it would “look bad” and may initiate deportation proceedings again. *Id.* On or about August 10, 2011, respondent wrote a second letter to Galan-Rubio stating that his “payment is overdue.” (Ex. 32.) Respondent stated that if Galan-Rubio did not pay her, she would have to contact immigration officials, which would lead to him being deported. *Id.* Respondent further stated that she could not “stop it this time around.” *Id.*

26. On January 20, 2012, Cassandra Koshorek and David Malloy, special agents from the OIG, interviewed Judge Thomas Janas. (Ex. 33.) During this interview, Judge Janas indicated that he did not know respondent, that he had never received any money from her, and that he did not send any letters to her. *Id.* On January 24, 2012, Koshorek interviewed Yolanda Villalovas. (Ex. 34.) During the interview, Villalovas stated that she did not know respondent, Galan-Rubio, or Judge Janas. *Id.* She further stated that she did not receive any money from respondent, nor did she recall receiving any letters from respondent. *Id.* Villalovas stated that if a letter had been sent to her, it would have most likely been intercepted by the receptionist and forwarded to the correct department. *Id.* Based on the interviews with Judge Janas and Villalovas, the OIG declined to take

further action in the matter. (Ex. 7.) The OIG did, however, speak to federal and local prosecutors about the possibility of prosecuting respondent for her actions; however, both entities declined to prosecute respondent for various reasons. *Id.*

27. As required by Gov. Bar R. VII(7)(B), Relator's Motion for Entry of Default contains the following:

- a. A statement of the effort made to contact Respondent [Mot. for Entry of Def. pp. 2-4];
- b. Sworn or certified documentary *prima facie* evidence in support of the allegations of the complaint. [Mot. for Entry of Def. pp. 4-6, Exh. 16-23];
- c. Citations of any authority relied upon by Relator [Mot. for Entry of Def. pp. 9-10];
- d. A statement of any mitigating factors or exculpatory evidence of which Relator is aware [Mot. for Entry of Def. p. 10];
- e. A statement of relief by Relator [Mot. for Entry of Def. pp.11-12];
- f. A certificate of service of the motion on Respondent at the address stated on the Complaint [Mot. for Entry for Def. pp.3-4, Exh.12-13].

#### IV. CONCLUSIONS OF LAW

1. The Supreme Court of Ohio has original jurisdiction regarding admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law. Section 2(B)(1)(g), Article IV, Ohio Constitution; *Royal Indemnity Co. v. J.C. Penney Co.* (1986), 27 Ohio St.3d 31, 501 N.E.2d 617; *Judd v. City Trust & Sav. Bank* (1937), 133 Ohio St. 81, 12 N.E.2d 288. Accordingly, the Court has exclusive jurisdiction over the regulation of the unauthorized practice of law in Ohio. *Greenspan v.*

*Third Fed. S. & L. Assn.*, Slip Opinion No. 2009-Ohio-3508, at ¶ 16; *Lorain Cty. Bar Assn. v. Kocak* (2009), 121 Ohio St.3d 396, 2009-Ohio-1430, 904 N.E.2d 885, at ¶ 16.

2. The Court regulates the unauthorized practice of law in order to “protect the public against incompetence, divided loyalties, and other attendant evils that are often associated with unskilled representation.” *Cleveland Bar Assn. v. CompManagement, Inc.* (2004), 104 Ohio St.3d 168, 2004-Ohio-6506, 818 N.E.2d 1181, at ¶ 40.

3. The unauthorized practice of law is the rendering of legal services for another by any person not admitted or otherwise registered or certified to practice law in Ohio. Gov.Bar R. VII(2)(A).

4. The unauthorized practice of law “embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts.” *Land Title & Trust v. Dworken* (1934), 129 Ohio St. 23, 28, 193 N.E. 650.

5. “[T]he unauthorized practice of law consists of rendering legal services and includes the preparation of legal pleadings and other papers for another without the supervision of an attorney licensed in Ohio. *Cleveland State Bar Assn. v. Cohen* (2005), 107 Ohio St.3d 98, 2005-Ohio-5980, 836 N.E.2d 1219 at ¶ 6; *See also, Richland Cty. Bar Assn. v. Clapp* (1998), 84 Ohio St.3d 276, 278, 703 N.E.2d 771; *Cleveland Bar Assn. v. Coats* (2003), 98 Ohio St.3d 413, 2003-Ohio-1496, 786 N.E.2d 449.

6. A person not authorized to practice law in Ohio may neither hold himself or herself “out in any manner as an attorney at law” nor “represent [himself or herself] orally or in writing, directly or indirectly, as being authorized to practice law.” R.C. 4705.07(A).

7. The Court has also specifically stated that holding oneself out as a “member of the Ohio bar to prospective clients and others without possessing a license to practice law in this state” is the unauthorized practice of law. *Disciplinary Counsel v. Robson* (2007), 116 Ohio St.3d 318, 2007-Ohio-6460, 878 N.E.2d 1042, at ¶ 10; *Medina Cty. Bar Assn. v. Flickinger*, 95 Ohio St.3d 498, 2002-Ohio-2483, 769 N.E.2d 822.

8. “The use of ‘lawyer’, attorney at law,’ ‘counselor at law,’ ‘law office,’ or other equivalent words by any person not licensed to practice law, in connection with that person’s own name, or any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe that person to be an attorney, constitutes holding [oneself] out [as an attorney].” R.C. 4705.07(B). By circulating business cards for Hernandez Law which indicated a focus on criminal, family, juvenile and immigration law Respondent was representing that she had skills or knowledge regarding the law and caused others to believe her company and services were legitimate.

9. A person not authorized to practice law in Ohio engages in the unauthorized practice of law when he or she advertises legal services that he or she is not licensed to provide. *Cleveland Bar Assn. v. McKissic* (2005), 106 Ohio St. 3d 106, 2005-Ohio-3954, 832 N.E.2d 49.

10. A person not authorized to practice law in Ohio engages in the unauthorized practice of law when he or she accepts money in exchange for representation or advice. *Disciplinary Counsel v. Brown* (2009), 121 Ohio St.3d 243 at ¶28, 2009-Ohio-1152, 905 N.E.2d 163; *Disciplinary Counsel v. Pratt* (2010), 127 Ohio St. 3d 293 at ¶ 17, 2010-Ohio-6210, 939 N.E.2d 170. Respondent was paid \$2,050.00 in four installments for

immigration paperwork, court costs and legal fees by Galan-Rubio. Respondent was given an additional \$600 by Galan-Rubio, which funds were provided by the OIG as part of the investigation into Respondent's connection with Judge Janas and Villalovos. A finding of remuneration is not required in order to find that a person not authorized to practice law in Ohio has engaged in the unauthorized practice of law. *Cleveland Bar Assn. v. Henley* (2002), 95 Ohio St. 3d. 91, 2002-Ohio-1628, 766 N.E.2d 130, quoting *Geauga Cty. Bar Assn. v. Canfield* (2001), 92 Ohio St.3d 15, 2001-Ohio-138, 748 N.E.2d 23

11. A Motion for Default must contain sufficient sworn or certified documentary *prima facie* evidence in support of the allegations of the complaint. Gov.Bar. R. VII(7)(B).

12. Respondent, who is not admitted to the practice of law in Ohio nor otherwise permitted to practice through registration or certification, engaged in the unauthorized practice of law by holding herself out as an Ohio-licensed attorney to Miguel Galan-Rubio and others.

13. Respondent also engaged in the unauthorized practice of law through the following conduct:

- a. Advertising legal services by posting a business card indicating she worked for Hernandez Law at a local grocery. [Ex.14; Ex. 15]
- b. Meeting with and advising Galan-Rubio regarding his case in the United States Immigration Court(Cleveland, Ohio) Case #A088-922-285. [ Ex. 14]

- c. On behalf of Miguel Galan-Rubio, corresponding with Immigration Court officials and submission of an I 485 form to Immigration authorities [Ex. 18-23]
  - d. Accepting \$2,650.00 in exchange for her legal services. [Ex. 14; Ex. 16 Ex. 17]
14. Relator's Motion for Entry of Default contains sufficient sworn and/or certified documentary prima facie evidence in support of the allegations of the Complaint.

#### **V. CIVIL PENALTY ANALYSIS**

The Board recommends that the Supreme Court of Ohio impose a civil penalty of \$10,000 for her representation of Miguel Galan-Rubio and impose a \$5,000 penalty for the business cards she used to promote her legal services, for a total of \$15,000.

With regard to the recommended civil penalty, the Board hereby discusses the facts of this case along with the guidelines set forth in UPL Reg. 400.

**1. Degree of cooperation provided by respondent in the investigation.**

Respondent did not cooperate during the investigation.

**2. Number of occasions that the unauthorized practice of law was committed.**

Based on the evidence presented by Relator, the Board finds that, by a preponderance of the evidence, Respondent has committed the following two acts constituting the unauthorized practice of law:

- a. The preparation of documents and correspondence on behalf of Galan-Rubio for the Immigration Court as well as the conferences and advising of Galan-Rubio regarding his immigration status.
- b. The use of business cards to advertise her legal services.



### 3. The flagrancy of the violations.

#### Pattern of Deceit

Respondent is not admitted to the bar of Ohio and is not otherwise authorized to perform legal services in Ohio. Respondent engaged in a pattern of deceit, which included fabricating relationships with real federal employees, resulting in an investigation as to whether they were accepting money from Respondent to aid in the resolution of Galan-Rubio's case or committed any other misconduct.

Respondent even fabricated letters purportedly from Judge Janas addressed to Galan-Rubio. One letter indicated the judge was in receipt "of a few payments on the applications that you [sic] lawyer has sent to me." [Ex. 29] The letter closes with "I am a father myself and I know how hard it is to raised a family also. Just keep up the good work and stat [sic] out of trouble and lets get this done and over with." [Id.] The letterhead and signature indicated it is from Judge Thomas W. Jansa [sic]. In a sworn statement, Judge Thomas Janas indicated he did not know Respondent or Galan-Rubio, and when he became aware of the allegations, he transferred Galan-Rubio's case to another judge, to avoid any conflicts. [Ex. 33].

In the report from the OIG, Hernandez's fraud is described as "particularly heinous because not only does it alter official government proceedings, it also preys on vulnerable unwitting victims unfamiliar with the immigration process, which will most likely result in their deportation." [Ex. 34, p. 2] Further, the attorney who Galan-Rubio ultimately retained stated Hernandez's scheme was very effective, because tactics such as bribing "immigration officials into delivering a favorable

outcome....are common in other countries, such as Mexico, where Mr. Galan-Rubio is from.” [Ex. 25, ¶ 16.]

4. **Harm to third-parties arising from the offense.** The Board is aware of three individuals harmed by Hernandez’s actions: Galan-Rubio, Judge Janas, and Yolanda Villalovas. There may, however, be other individuals who have been victim to Respondent’s scheme.

**Galan-Rubio**

Galan-Rubio paid Respondent \$2,050 for her services – all of which is documented by the receipts Respondent provided to him. [Ex. 14B] Because he became suspicious of respondent, he contacted Attorney Marilyn Zayas-Davis, who confirmed that he did have a hearing on March 16, 2011 and it was not “cancelled” as Hernandez told him. [Mot. for Def. p. 7] Although the Board notes that Galan-Rubio was able to secure counsel prior to his hearing, it is noted that had he heeded Respondent’s advice, and not appeared on March 16, 2011, the hearing would have proceeded and an order to be “removed in absentia” would have been issued. [Ex. 25 ¶ 15] Once deported subject to that order, Galan-Rubio would have been unable to return to the U.S. for ten years. [*Id.*] It is unknown how long Hernandez has been operating this scheme and how many individuals have been affected.

**Judge Thomas Janas and Yolanda Villalovas**

“A single lie destroys a whole reputation of integrity.” Baltasar Gracián

The Board is particularly disturbed with the way in which Respondent’s scheme falsely identified two federal employees, immigration judge Thomas W.

Janas, and Immigration Service Officer Yolanda Villalovas as co-conspirators. Based on her statements, both Judge Janas and Ms. Villalovas were subjected to an investigation by the U.S. Department of Homeland Security OIG. Further, upon learning of the allegations, Judge Janas immediately transferred the case to another judge to avoid any conflicts. The letters drafted by Respondent that were purportedly drafted by Judge Janas show that a judge is willing to engage in ex-parte communication and accept money in exchange for a dismissal or favorable outcome in a case pending before him. Respondent made statements indicating the judge was asking for additional money in Galan-Rubio's case. With regard to Villalovas, Respondent assured Galan-Rubio that Villalovas knew what was going on and would take action once the money was received, which was untrue. Both Judge Janas and Ms. Villalovas reported to OIG that they did not know Respondent, and have not received any money in connection with any cases, so the Board found the harm caused to their reputations and that of the immigration court.

5. **Other relevant factors.** By posting business cards advertising her legal services, Respondent held herself out as an attorney and allowed others to believe she was knowledgeable and authorized to perform legal services in Ohio. In *Cleveland Metro. Bar Assn. v. McGinnis* (2013), the Court imposed a \$4,000 civil penalty against a Respondent who posted flyers and circulated them at local libraries. 137 Ohio St.3d 166, 2013-Ohio-4581. In *McGinnis*, the Court stated that by advertising one's services, one is attempting to provide legal services on behalf of another and a harsher penalty should be imposed to discourage such conduct. Based on the record, the Panel recommends a \$5,000 civil penalty is warranted.

## **VI. BOARD RECOMMENDATION**

1. The Board recommends that the Supreme Court of Ohio issue an order finding that Respondent engaged in the unauthorized practice of law.
2. The Board also recommends that the Court issue an order further prohibiting Respondent from engaging in the unauthorized practice of law in the future
3. The Board recommends that the Court impose a civil penalties against Respondent in the amounts of \$10,000 for advising Galan-Rubio and the preparation of documents and correspondence on his behalf; and \$5,000 for her business card advertisements promoting her legal services, for a total of \$15,000.
4. The Board recommends that the Court require Respondent to reimburse Galan-Rubio \$2,050, and \$600 to the Office of Inspector General. *Cleveland Metro. Bar Assn. v. Hernick*, Slip Opinion No. 2014-Ohio-521.
5. The Board further recommends that the Court require Respondent to reimburse the costs and expenses incurred by the Board and Relator in this matter.

## **VII. STATEMENT OF COSTS**

Relator has submitted a statement that no extraordinary costs were incurred in this matter.

**FOR THE BOARD ON THE UNAUTHORIZED  
PRACTICE OF LAW**

  
\_\_\_\_\_  
John J. Chester, Jr., Chair

### CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Report was served the 4<sup>th</sup> day of April, 2014, upon the following in accordance with Gov. Bar R. VII, Sec. 7(G): Karen Osmond, Esq., Office of Disciplinary Counsel, 250 Civic Center Dr., Ste. 325, Columbus, Ohio 43215; Mary E. Hernandez, 7501 School Lot Road, Lot 63, Cincinnati, Ohio 45249; Ohio State Bar Association UPL Committee, P.O. Box 16562, Columbus, Ohio 43216; Cincinnati Bar Association UPL Committee, 225 East Sixth Street, Cincinnati, Ohio 45202.

Minerva B. Elizaga  
Minerva B. Elizaga, Secretary  
Board on the Unauthorized Practice of Law