

IN THE SUPREME COURT OF OHIO

In re:

Complaint against **Case No. 2022-036**

Esmeralda Fleming

Respondent

Cleveland Metropolitan Bar Association

Relator

CERTIFICATION OF DEFAULT

Esmeralda Fleming (0066287)
P. O. Box 110152
Cleveland, Ohio 44111-2739
(216) 333-8555
[**missfleming70@aol.com**](mailto:missfleming70@aol.com)

Richard A. Dove (0020256)
Director
Ohio Board of Professional Conduct
65 South Front Street, 5th Floor
Columbus, Ohio 43215
(614) 387-9370
[**rick.dove@bpc.ohio.gov**](mailto:rick.dove@bpc.ohio.gov)

Christopher J. Klasa (0083467)
Bar Counsel
Cleveland Metropolitan Bar Association
1375 East Ninth Street, Second Floor
Superior Room
Cleveland, Ohio 44114
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[**cklasa@clemetrobar.org**](mailto:cklasa@clemetrobar.org)

IN THE SUPREME COURT OF OHIO

In re:

Complaint against

CERTIFICATION OF DEFAULT

Esmeralda Fleming

Gov. Bar R. V, Section 14

Respondent

Cleveland Metropolitan Bar Association

Relator

Pursuant to Rule V, Section 14, of the Supreme Court Rules for the Government of the Bar of Ohio, I hereby certify that the respondent in the above-captioned matter has failed to file an answer to the formal complaint certified to the Ohio Board of Professional Conduct on August 31, 2022.

Attached to this certification is an affidavit setting forth the attempts to serve the complaint on the respondent and copies of documents referenced in the affidavit.

Richard A. Dove

**Director
Board of Professional Conduct**

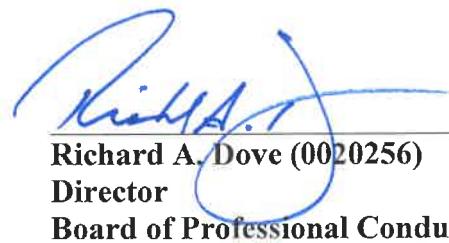
STATE OF OHIO
COUNTY OF FRANKLIN

AFFIDAVIT

I, Richard A. Dove, having been duly sworn according to the laws of Ohio, hereby depose and say:

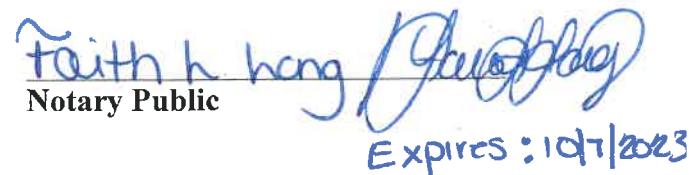
1. I am the Director of the Board of Professional Conduct of the Supreme Court of Ohio (“Board”). Pursuant to Rule V of the Supreme Court Rules for the Government of the Bar of Ohio, I am responsible for serving certified disciplinary complaints on the parties and maintaining the records of cases certified to the Board.
2. On August 31, 2022, a formal complaint was certified to the Board in the case of *Cleveland Metro. Bar Assn. v. Esmeralda Fleming*, Case No. 2022-036. Pursuant to Gov. Bar R. V, Section 11, a notice and copy of the complaint were sent via email to the respondent at missfleming70@aol.com, the electronic service address maintained by the Supreme Court Office of Attorney Services.
3. Respondent did not reply to or otherwise acknowledge receipt of the service email. As a result, the Clerk of the Supreme Court accepted service on behalf of Respondent on September 19, 2022.
4. On September 21, 2022, a notice of intent to certify the respondent’s default was sent via email to Respondent at the email address listed in ¶2 of this affidavit and via certified mail to the address listed in Respondent’s attorney registration record.
5. As of the date of this affidavit, Respondent has not filed an answer to the certified complaint or otherwise responded to the certification or notice of intent.
6. Attached to this affidavit are true and accurate copies of the following:
 - a. The formal complaint certified to the Board on August 31, 2022 (Attachment A);
 - b. The certification of service issued by the Clerk of the Supreme Court of Ohio on September 19, 2022 (Attachment B);
 - c. The notice of intent sent to Respondent on September 21, 2022 (Attachment C).

FURTHER AFFIANT SAYETH NAUGHT.



Richard A. Dove (0020256)
Director
Board of Professional Conduct

Sworn to before me and subscribed in my presence this 5th day of October, 2022.



Notary Public
Expires: 10/1/2023

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF
THE SUPREME COURT OF OHIO

FILED

In re:)
)
Complaint against:)
)
Esmeralda Fleming, Esq.)
Attorney Registration No. 0066287)
nee Smaragda Karakoudas, Esq.)
P.O. Box 110152)
Cleveland, OH 44111)
)
Respondent,)
)
Cleveland Metropolitan Bar)
Association)
1375 East 9th Street, 2nd Floor)
Cleveland, Ohio 44114)
)
Relator.)

BOARD OF PROFESSIONAL CONDUCT
CASE NO. 2022-036 _____

Complaint and Certificate
Rule V of the Supreme Court
Rules for the Government of
the Bar of Ohio.

Relator Cleveland Metropolitan Bar Association alleges that Esmeralda Fleming nee Smaragda Karakoudas, an attorney currently indefinitely suspended from the practice of law in the State of Ohio, is guilty of misconduct as described below.

INTRODUCTION

1. Respondent, Esmeralda Fleming nee Smaragda Karakoudas, Ohio Supreme Court Attorney Registration Number 0066287 ("Respondent"), was admitted to the practice of law in the state of Ohio on November 12, 1996. Respondent is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

2. Relator Cleveland Metropolitan Bar Association ("Relator") sponsors a certified grievance committee authorized to investigate allegations of misconduct by

attorneys admitted to the bar of the State of Ohio and initiate complaints as a result of such investigations in appropriate instances pursuant to Gov. Bar R. V.

3. On December 3, 2020, Relator filed a complaint against Respondent with the Board of Professional Conduct (Case No. 2020-074) alleging multiple violations of the Rules of Professional Conduct.

4. On February 4, 2021, Respondent was placed under an interim default suspension by the Ohio Supreme Court in Case No. 2020-074 for failure to respond to the complaint.

5. On June 23, 2021, the Ohio Supreme Court issued an order converting the interim default suspension into an indefinite suspension pursuant to Gov. Bar Rule V, Section 14(E)(1). *See Cleveland Metro. Bar Assn. v. Fleming*, 164 Ohio St.3d 1254, 2021-Ohio-2088.

6. Relator initiated an investigation of Respondent pursuant to Gov. Bar R. V Sec. 9(C)(1) regarding the misconduct alleged herein after additional grievances were filed against Respondent in 2021.

7. Relator has attempted to serve Respondent at the address registered with the Office of Attorney Services and other addresses uncovered during Relator's investigation with no response from Respondent.

8. This Complaint follows Relator's investigation of the relevant facts and circumstances.

COUNT I - REPRESENTATION OF ALIEN XXX-XX-417

9. On May 26, 2021, while subject to the interim default suspension imposed by the Ohio Supreme Court on February 4, 2021, Respondent appeared at, and

participated in a video hearing before Cleveland Immigration Court Judge Jeremy Santoro, regarding the matter of Alien Number XXX-XX-417.

10. At no time did Respondent acknowledge her suspension.

11. Respondent's representation of a client after her suspension violated Ohio's Rules of Professional Conduct, specifically:

- a. Prof. R. 5.5(a) (prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so); and
- b. Prof. R. 5.5(b)(2) (prohibiting a lawyer who is not admitted to practice in this jurisdiction from holding herself out as admitted to practice).

COUNT II - REPRESENTATION OF ALIEN XXX-XX-799

12. On July 26, 2021, while subject to the indefinite default suspension imposed by the Ohio Supreme Court' on June 23, 2021, Respondent appeared at, and participated in a video hearing before Cleveland Immigration Court Judge Jonathan Jones, regarding the matter of Alien Number XXX-XX-799.

13. In the application for asylum for her client, Respondent indicated she was "retired" as of 1-1-20.

14. At no time did Respondent acknowledge her suspension.

15. Respondent's false statements and continued representation of a client after her suspension violated Ohio's Rules of Professional Conduct, specifically:

- a. Prof. R. 5.5(a) (prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so);

- b. Prof. R. 5.5(b)(2) (prohibiting a lawyer who is not admitted to practice in this jurisdiction from holding herself out as admitted to practice);
- c. Prof. R. 3.3(a)(1) (knowingly make or fail to correct a false statement of fact to a tribunal); and,
- d. Prof. R. 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

COUNT III - REPRESENTATION OF ALIEN XXX-XX-682

16. On August 10, 2021, while subject to the indefinite default suspension imposed by the Ohio Supreme Court's order of June 23, 2021, Respondent appeared at, and participated in a hearing before Cleveland Immigration Court Judge Donald Pashayan, regarding the matter of Alien Number XXX-XX-682.

17. Government's counsel was aware of respondent's suspension and inquired if she was still suspended from the practice of law.

18. Respondent told Government's counsel that she was "retired." At no time did Respondent acknowledge that she was still under suspension.

19. Respondent's continued representation of a client after her suspension violated Ohio's Rules of Professional Conduct, specifically:

- a. Prof. R. 5.5(a) (prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so);
- b. Prof. R. 5.5(b)(2) (prohibiting a lawyer who is not admitted to practice in this jurisdiction from holding herself out as admitted to practice);
- c. Prof. R. 3.3(a)(1) (knowingly make or fail to correct a false statement of fact to a tribunal); and,

d. Prof. R. 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation).

COUNT IV - ARANA-CENTENO ASYLUM CASE

20. Respondent was retained by Judith Marisol Arana-Centeno in 2015 in relation to Arana-Centeno's petition for Asylum in the Cleveland Immigration Court.

21. After Ms. Arana-Centeno's petition for asylum was denied on November 14, 2018, she again retained Respondent to prepare an appeal with the Board of Immigration Appeals.

22. Ms. Arana-Centeno paid Respondent \$1,500 for the filing of this appeal.

23. Ms. Arana-Centeno moved and notified Respondent of her change of address in March 2019, believing that Respondent would inform the Department of Homeland Security and the Board of Immigration Appeals. Respondent never acknowledged this communication and did not update DHS and the BIA of the change of address.

24. Respondent did not communicate with Ms. Arana-Centeno until September 1, 2019, when Respondent informed Ms. Arana-Centeno, in the form of a handwritten letter, that the Respondent's office address was no longer valid, and Respondent would initiate the contact with her for any future meetings.

25. The September 1, 2019, letter also admonished Ms. Arana-Centeno that she was not to text Respondent or have any unannounced/unauthorized visits with her.

26. Ms. Arana-Centeno's appeal was dismissed on December 7, 2020; however, she did not learn of the dismissal until February 2021, well outside of the 30-day timeframe in which she could appeal the dismissal. This delay is presumably the

result of the dismissal being sent to Ms. Arana-Centeno's previous address, since the BIA was not informed that she moved.

27. Through her representation of Ms. Arana-Centeno, Respondent's actions violated Ohio's Rules of Professional Conduct, specifically:

- a. Prof. R. 1.3 (acting with reasonable diligence and promptness);
- b. Prof. R. 1.4(a)(3) (keeping client reasonably informed about status of matter);
- c. Prof. R. 1.4(a)(4) (complying as soon as practicable with client's reasonable requests for information);
- d. Prof. R. 1.5(a) (charging or collecting an illegal or clearly excessive fee); and,
- e. Prof. Conduct R. 1.16(d) (taking steps to protect a client's interest as part of termination of representation).

RESTITUTION

28. Appropriate restitution may be required to any clients who paid for services rendered by Respondent after her suspension on February 4, 2021.

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, and the Ohio Rules of Professional Conduct, Relator alleges that Respondent is chargeable with misconduct. Therefore, Relator prays that Respondent be disciplined pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

Respectfully submitted,

/s/ Christopher Joseph Klasa
Christopher Joseph Klasa (0083467)
Bar Counsel
Cleveland Metropolitan Bar Association
1375 E. 9th Street, 2nd Floor
Cleveland, OH 44114
Phone: 216.539.5972
cklasa@clemetrobar.org

CERTIFICATE

The undersigned, Brenda M. Johnson, Chairperson of the Cleveland Metropolitan Bar Association's Certified Grievance Committee, hereby certifies that Christopher Joseph Klasa is duly authorized to represent Relator in the premises and has accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: August 19, 2022

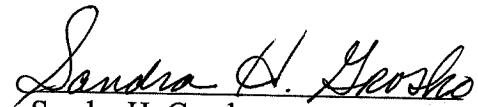
Signed: /s/ Brenda M. Johnson (per email consent)
Brenda M. Johnson (0062474)
Chair, Certified Grievance Committee
Cleveland Metropolitan Bar Association

The Supreme Court of Ohio

C E R T I F I C A T I O N

I, Sandra H. Grosko, certify that I was served on the 19th day of September, 2022, with a copy of the Notice to Respondent of Filing of Complaint and a copy of the Complaint and Certificate issued in the case of Cleveland Metro. Bar Assn. v. Esmeralda Fleming (Case No. 2022-036).

I received true and attested copies of the documents set forth above from the Director of the Board of Professional Conduct in conformity with Rule V, Section 27(B) of the Rules for the Government of the Bar.



Sandra H. Grosko
Clerk of Court



Ohio Board of Professional Conduct

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OH 43215-3431

Telephone: 614.387.9370 Fax: 614.387.9379

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HON. D. CHRIS COOK
VICE- CHAIR

RICHARD A. DOVE
DIRECTOR
D. ALLAN ASBURY
SENIOR COUNSEL
KRISTI R. MCANAUL
COUNSEL

September 21, 2022

Esmeralda Fleming
P O Box 110152
Cleveland, OH 44111-2739

Re: *Cleveland Metro. Bar Assn. v. Esmeralda Fleming*, Case No. 2022-036

Dear Ms. Fleming:

On August 31, 2022, the Board of Professional Conduct certified a formal complaint naming you as the respondent in the above-captioned disciplinary matter. A copy of the enclosed complaint was sent to you via email at missfleming70@aol.com, and you neither acknowledged receipt of the email nor filed a timely answer. Pursuant to Gov. Bar R. V, Section 27(B), the complaint was served on the Clerk of the Supreme Court, and the Clerk accepted service on September 19, 2022. As of the date of this letter, the Board has not received your answer to the formal complaint or a motion to extend the time for filing an answer.

Pursuant to Gov. Bar R. V, Section 14, you are hereby notified that the Board will certify your default to the Supreme Court fourteen days from the date of this letter. To avoid certification of default, you must file an answer to the formal complaint with the Board prior to the expiration of the fourteen-day period. No extension of time to file an answer is authorized by the rule.

Please note that the certification of default may result in your immediate suspension from the practice law by the Supreme Court of Ohio.

Sincerely,

Richard A. Dove

Enclosure

cc: Relator's counsel (via email)