

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
GLORIA SALAZAR CALONGE

VSB Docket No.: 08-000-073258

ORDER AND OPINION

This matter came before the Virginia State Bar Disciplinary Board (“Board”) for hearing on February 22, 2008, upon a Rule to Show Cause and Order of Suspension and Hearing entered on January 24, 2008 (“Rule”). A duly convened panel of the Board consisting of William H. Monroe, Jr.,^{2nd} Vice Chair presiding, Paul M. Black, Timothy A. Coyle, Robert L. Freed and Stephen A. Wannall, lay member, heard the matter. Scott Kulp, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (“VSB”). The Respondent, Gloria Salazar Calonge (“Respondent”) appeared and was represented by Michael L. Rigsby. The court reporter for the proceeding, Tracy L. Johnson, Chandler and Halasz, P. O. Box 9349, Richmond, Virginia 23227, telephone 804-730-1222, was duly sworn by the Chair.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”), in the manner prescribed by law. Part Six, §IV, ¶13(I)(5)(b) of the Rules of the Supreme Court, *Guilty Plea or Adjudication of a Crime*, provides, in relevant part, that following the issuance of an order of suspension, the Board shall serve upon the Respondent: a copy of the written notification from the Court; a copy of the Board Members’ Order; and a notice fixing the time and place of a hearing

to determine whether revocation or further suspension is appropriate. The hearing shall be not less than fourteen (14) nor more than thirty (30) days after the date of the Board's order. The Board finds that the VSB has complied with these requirements by forwarding a certified letter dated January 25, 2008, return receipt requested to Respondent's address of record. The Respondent appeared and was represented by counsel. The Chair opened the hearing by polling the Board members to ascertain whether any member had any personal or financial interest or bias which would interfere with or influence each such member's determination, and each member responded that there were no such conflicts. The Respondent, by counsel, waived an explanation of the hearing procedure.

Procedural Background

A plea agreement filed October 1, 2007, in the United States District Court for the Eastern District of Virginia, Alexandria Division, styled *United States of America v. Gloria Calonge*, Criminal Number 1:07CR380, was filed with the Rule, evidencing the Defendant's plea of guilty to a single count of criminal information charging the Defendant with misprision of a felony, in violation of 18 U.S.C. § 4. Prior to the hearing, on February 14, 2008, the Respondent filed an affidavit pursuant to the Rules of Court, Part Six, §IV, ¶13(M) confirming that on October 1, 2007, the Respondent pled guilty to the single count charging her with misprision of a felony, in violation of 18 U.S.C. § 4, and verifying that on November 27, 2007, she notified the Virginia State Bar, by counsel, of her guilty plea. The Respondent further stated in her affidavit that she ceased practicing law in Virginia on October 6, 2007, and that she had no clients to notify of the suspension of her law license by the Disciplinary Board on January 24, 2008.

Findings of Fact

I. Misconduct

Following opening statements by Bar Counsel and Respondent, Bar Counsel offered VSB exhibits 1 through 4. The exhibits were accepted without objection, and the Respondent, by counsel, stipulated that misconduct had occurred. The evidence established the following:

1. An alien, "N.V.," sought immigration services of the Respondent's firm. As a result, an application for Alien Labor Certification (Form ETA 750) and a petition of Alien Worker (Form I-140) were completed and filed.
2. The forms were filed to secure a visa to allow N.V. to work as a "Geriatric Caregiver/Nurse Aid" in Leesburg, VA. As N.V. did not have the employment background and experience needed to qualify for that position, a false letter was created and filed. The letter, titled "Certificate of Employment," falsely stated that N.V. was employed as a caregiver in the Philippines from October 1995 until June 1998. In truth, N.V. did not serve as a caregiver for the named individual during that time period or during any other period of time. The Certificate of Employment was untrue and signed in a false name.
3. The Immigration and Naturalization Service (INS) approved Form I-140, but determined that the Certificate of Employment was necessarily false based on information in N.V.'s passport. The passport revealed that N.V. was working as a casino dealer on a boat during the period when he was purportedly working as a caregiver in the

Philippines. Thus, on April 22, 2003, CIS (previously the INS) sent a letter to the Respondent's firm, announcing its intent to revoke the approval of the visa petition.

4. In response to the notice of intent to revoke, on May 14, 2003, the Respondent drafted a letter from her law office in Falls Church, Virginia, and mailed the letter to CIS. The respondent asserted that the allegedly fraudulent certification of Employment was "in fact product of an honest clerical error." The Respondent alleged that the Certificate of Employment should have stated that N.V. was a caregiver from 1985-89, instead of 1995-1998. As the Respondent knew when she drafted the letter that N.V. had never worked as a caregiver for that person – during any period of time. The Respondent wrote and mailed the letter for the purpose of concealing the fraud and convincing CIS not to pursue the intended revocation. The Respondent profited from such conduct and earned at least \$13,000 from aliens with similar falsehoods in their documents.

At the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After deliberation, the Board reconvened and stated that it found by clear and convincing evidence that the Respondent pled guilty to a Crime within the scope of Part 6, §IV, ¶13(i)(5)(b) of the Rules of the Supreme Court of Virginia.

II. Sanctions

The Board thereafter received evidence of aggravation and mitigation, including the Respondent's prior disciplinary record, which reflected no prior public discipline. The Board also received, without objection, Respondent's Exhibits 2, 4, and 5, which established, among other things, that Respondent was sentenced to thirty (30) days

imprisonment and fined \$5,000.00 by the United States District Court in connection with the Respondent's conduct described above. There was no order of restitution. The Bar's witness, Investigator David Jackson, testified that the Respondent was cooperative and truthful throughout the Bar's investigation. The Respondent established that she is a native of the Philippines and had an active immigration practice, particularly within the Philippine community residing in northern Virginia. The Respondent's testimony, which the Board found credible, was that given her experience and length of practice in immigration, the misconduct committed by the Respondent was isolated in nature and not likely to be repeated in the future. Further, the Respondent's testimony established genuine remorse for her conduct. The Board recessed to deliberate what sanctions to impose upon its findings of misconduct by the Respondent. After due deliberation, the Board reconvened to announce the sanction imposed. The Chair announced its sanction as SUSPENSION for two (2) years, effective February 22, 2008. The Respondent requested that the Suspension Date be made retroactive to January 24, 2008, the date of the Summary Suspension, which the Board declined.

Accordingly, it is

ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is SUSPENDED for two (2) years, effective February 22, 2008. It is further

ORDERED that the Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of her license to practice law in the Commonwealth of Virginia to all clients

for whom she is currently handling matters and to all opposing attorneys and presiding Judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in her care in conformity with the wishes of her clients. The Respondent shall give such notice within fourteen (14) days of the effective date of the Revocation, and make such arrangements as are required within forty-five (45) days of the effective date of the suspension. The Respondent shall also furnish proof to the VSB within sixty (60) days of the effective date of the suspension that such notices have been timely given and such arrangements made for the disposition of matters. It is further

ORDERED that if the Respondent is not handling any client matters on the effective date of February 22, 2008, she shall submit an amended and updated affidavit to that effect to the Clerk of the Disciplinary System of the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by ¶13(M) shall be determined by the Board, unless Respondent makes a timely request for a hearing before a three judge court. It is further

ORDERED that because the Respondent's license has been suspended for more than one year, the Respondent's license shall not be reinstated unless and until the Respondent fully complies with the provisions of Part Six, §IV, ¶13(I)(8)(c) of the Rules of the Supreme Court. It is further

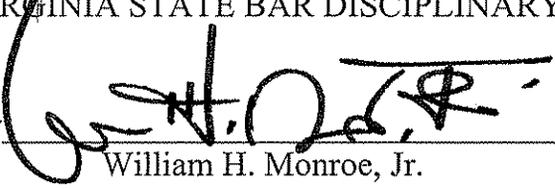
ORDERED that Part Six, §IV, ¶13(B)(8)(c) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent. Finally, it is further

ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order and Opinion to Respondent at her address of record with the Virginia State Bar, being Suite 8-S, 3705 S. George Mason Drive, Falls Church, VA 22041 by certified mail, return receipt requested, and by regular mail to Scott Kulp, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803, and to Michael L Rigsby, Carrell Rice & Rigsby, 7275 Glen Forest Drive, Forest Plaza 2, Suite 310, Richmond, VA 23226, counsel for the Respondent.

ENTERED THIS 18th DAY OF MARCH, 2008.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By



William H. Monroe, Jr.
Second Vice Chair

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