OFFICE OF BAR COUNSEL

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April 30, 2013

BY FIRST-CLASS AND CERTIFIED
MAIL NO. 71969008911139107433

Arun K. Chhabra, Esquire
Zai Solutions, Inc
8603 Westwood Center Drive
Suite #300
Vienna, VA 22182

Re: *In re Arun K. Chhabra, Esquire*
(D.C. Bar Registration No. 148197)
Bar Docket No. 2007-D232

Dear Mr. Chhabra:

This office has completed its investigation of the above-referenced matter. We find that your conduct reflected a disregard of certain ethical standards under the District of Columbia Rules of Professional Conduct (the "Rules"). We are, therefore, issuing you this Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8.

This matter was docketed for investigation based upon your conduct as counsel for NSS in connection with his immigration matter. Based upon our investigation of this matter, we find that your conduct violated Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), 1.4(a), 1.4(b), and 1.5(b).

NSS and his wife, JKS, both United Kingdom nationals, entered the United States on or about November 18, 1998. NSS entered pursuant to an H-1B visa as an employee of Apech Professional Solutions.[1] JKS entered pursuant to an H-4 visa.[2] Thereafter, Mr. and Mrs. NSS remained in the United States, periodically renewing their H-1B and H-4 visas.

[1] An H-1B visa allows United States employers to temporarily employ foreign workers in specialty occupations.

[2] An H-4 visa is available to spouses and children under 21 years of age of H-1B visa holders.

In May 2003, NSS retained you to represent him and his wife in their immigration matters. At the time, NSS was employed by MSU Software Consultants (MSU) as a Program Analyst and his H-1B visa was set to expire on February 24, 2004. Likewise, JKS's H-4 visa was also set to expire in 2004. At the time of your retention, you did not provide your clients with a writing setting forth the basis and rate of your fee.

NSS had pending a labor certification application when he retained you. In June or July 2004 you agreed to assume the responsibility of stewarding that application. You represented that for a fee of $2,000, you would contact someone at the Chicago Department of Labor (DOL) office and have his application fast-tracked. However, you did not send correspondence to anyone at the DOL regarding NSS's labor certification application.

On or about January 22, 2004, you filed with the United States Citizenship and Immigration Service (USCIS) a Form I-129 application for an extension of NSS's H-1B visa through February 24, 2006, pursuant to his employment with MSU. In filing this application you represented the interests of both MSU (the petitioner) and NSS (the beneficiary). Although you had agreed to represent JKS as well, you failed to file an application to renew her H-4 visa. Consequently, her visa expired and she began to accrue unlawful presence in the United States.[3]

On or about July 30, 2004, the USCIS issued a Request for Evidence (RFE), seeking additional information in connection with NSS's application to extend his H-1B. Specifically, the USCIS found that MSU was a contractor in the business of placing aliens with computer backgrounds in jobs with firms in need of computer specialists, and that MSU was therefore not NSS's actual employer. The RFE required MSU to submit an itinerary of definite employment, listing the locations and organizations where NSS would be working, the dates of each engagement, and the names and addresses of the actual employers where NSS would be working during the extension period requested.

You did not inform NSS that that USCIS had issued an RFE. You did not explain the RFE to NSS or discuss with him his options on how to proceed with the case.

On October 29, 2004, you submitted a letter to USCIS from MSU certifying that NSS was an employee of MSU and was currently providing consulting services for Wells Fargo Bank through a sub-contract agreement with Tacworldwide Companies. However, you did not submit any of the agreements between Wells Fargo Bank and Tacworldwide Companies. You also did not provide a full itinerary of NSS's service plan and pay schedule through February 24, 2006, as required by the RFE.

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[3] An alien faces a three-year bar to re-entry after 180 days of unlawful presence in the United States or a ten-year bar to re-entry after 365 days of unlawful presence. The bar to re-entry takes effect if the alien departs from the United States after accruing such unlawful presence.

On December 6, 2004, the USCIS denied NSS's application to extend his H-1B visa because you did not submit the evidence requested in the July 30, 2004 RFE. When NSS's application to extend his H-1B visa was denied, he began accruing unlawful presence in the United States. You did not advise NSS of the potential adverse consequences of his unlawful presence in the United States. Instead you elected to pursue an appeal, under the incorrect assumption that NSS would remain in lawful status throughout the appeal process.

On or about January 7, 2005, you filed a notice of appeal with the Administrative Appeals Office (AAO) requesting 30 days to prepare and file an appellate brief challenging the denial of NSS's H-1B renewal. You did not file the appellate brief within 30 days. Instead, you requested several continuances, and filed the brief five months later on June 6, 2005. In the appeal you again did not submit the required itinerary which the USCIS had originally requested in the July 30, 2004 RFE. Instead you contended that your October 29, 2004 response to the RFE was sufficient because there was "no regulatory requirement that the employer provide documentation of all contracts to which the employee will be assigned throughout the period of stay."

In October 2005, NSS viewed another immigration attorney's website and learned that the timely filing of an appeal does not toll the accrual of unlawful presence. Accordingly, NSS was concerned that he and his wife would be subject to a 3 or 10 year bar if they left the United States. On October 24, 2005 NSS sent you an email asking you to explain the situation. You improvidently advised him of the position he was in, stating only that "we have discussed these things several times" and "your H-1B should be approved on appeal."

In February 2006, NSS contacted you regarding filing renewal applications of his H-1B visa, and his wife's H-4 visa.

On November 15, 2006, the AAO denied the appeal. By this time your clients had accrued nearly two years of unlawful presence. You never informed your clients of the consequences their unlawful presence in the United States would have on their immigration status and future attempts to become permanent residents of the United States.

Based upon our investigation of this matter, we find that your conduct violated Rules 1.1(a), 1.1(b), 1.3(a), 1.3(c), 1.4(a), 1.4(b), and 1.5(b).

Rule 1.1(a) and (b) state, respectively, "[a] lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation," and "[a] lawyer shall serve a client with skill and care commensurate with that generally afforded to clients by other lawyers in similar matters." We find that you did not provide your clients with competent representation in that you did not timely file an application to renew JKS's H-4 visa. Further, when NSS's application

to renew his H-1B visa was denied, you filed an appeal, and incorrectly advised him that he would not accrue unlawful presence during the pendency of the appeal. Your conduct constituted a violation of Rules 1.1(a) and (b).

Rules 1.3(a) and (c) state, respectively, "[a] lawyer shall represent a client zealously and diligently within the bounds of the law," and "[a] lawyer shall act with reasonable promptness in representing a client." You violated these Rules based upon the conduct above. In addition, you did not contact a DOL representative on behalf of your clients, as you had promised you would.

Rules 1.4(a) and (b) state, respectively, "[a] lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information," and "[a] lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." Rule 1.4 requires that a lawyer communicate core information to a client regarding the representation. You did not inform NSS that the USCIS had issued an RFE in July 2004, and did not discuss with him the options available to him. Instead you filed an incomplete response to the RFE which resulted in the denial of NSS's H-1B. Thereafter, when you filed an appeal, you did not communicate to NSS the danger of accruing unlawful presence during the pendency of the appeal. This conduct constitutes a violation of Rules 1.4(a) and (b).

Rule 1.5(b) states that "when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation." We find that your conduct violated Rule 1.5(b) because you did not provide your clients with a writing setting forth the basis or rate of the fee you would charge for representing them in connection with their immigration matter.

We have considered whether your conduct violated other Rules, but do not find clear and convincing evidence to support such violations.

Bar Counsel has determined that an informal admonition is the appropriate sanction given several mitigating factors, including: that you acknowledge your misconduct, your lack of prior discipline over a period of 44 years of practice; that your conduct did not involve dishonesty, fraud, deceit or misrepresentation; and that by agreeing to accept this informal admonition, you demonstrate your willingness to accept responsibility for your misconduct.[4] We also recognize that for the past several years, you have been providing fulltime care for your wife, who has been gravely ill. We also have taken into account that you have agreed to refund to your former client the $2,000 in legal fees that he paid to you in this matter pursuant to the payment schedule you

[4] We also recognize, as a mitigating factor for your violations of Rules 1.4(a) and (b), that your failure to deliver the above-described communications to your clients was borne of your good faith, but incorrect belief that your clients were not accruing unlawful presence.

proposed.[5] By this letter, we reserve the right to rescind this Informal Admonition and file disciplinary charges against you, should you fail to honor your agreement to refund your former clients. Finally, we have taken into account that your former clients were able to obtain their respective visas through the efforts of successor counsel.

This letter constitutes an Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8, and is public when issued. Please refer to the attachment to this letter of Informal Admonition for a statement of its effect and your right to have it vacated and have a formal hearing before a hearing committee.

If you would like to have a formal hearing, you must submit a written request for a hearing to the Office of Bar Counsel, with a copy to the Board on Professional Responsibility, within 14 days of the date of this letter, unless Bar Counsel grants an extension of time. If a hearing is requested, this Informal Admonition will be vacated, and Bar Counsel will institute formal charges pursuant to D.C. Bar Rule XI, § 8(c). The case will then be assigned to a Hearing Committee, and a hearing will be scheduled by the Executive Attorney for the Board on Professional Responsibility pursuant to D.C. Bar Rule XI, § 8(d). Such a hearing could result in a recommendation to dismiss the charges against you or a recommendation for a finding of culpability, in which case the sanction recommended by the Hearing Committee is not limited to an Informal Admonition.

Sincerely,

Wallace E. Shipp, Jr.
Bar Counsel

Enclosure: Attachment to Letter of Informal Admonition

cc: NSS

WES:HCS:JCL:act

5 You have agreed to repay your former clients $50 per month for forty (40) months.