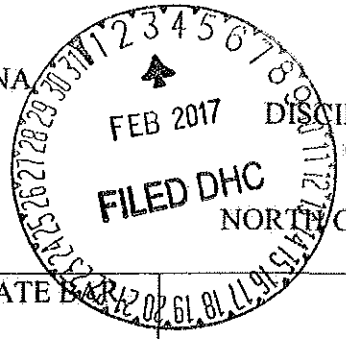

STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 16 DHC 19
THE NORTH CAROLINA STATE BAR Plaintiff v. ALVARO DE LA CALLE, Attorney, Defendant	ORDER OF DISCIPLINE

THIS MATTER was heard on January 13, 2017 before a Hearing Panel of the Disciplinary Hearing Commission composed of R. Lee Farmer, Chair, and members David W. Long and Tyler B. Morris. Joshua T. Walthall represented Plaintiff, the North Carolina State Bar. Defendant, Alvaro De La Calle, was present and appeared *pro se*.

Based upon the pleadings, the stipulated facts, and the evidence admitted at the hearing, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Alvaro Ruben De La Calle ("Defendant"), was admitted to the North Carolina State Bar on August 24, 2012, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar, and the Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Guilford County, North Carolina.

4. Defendant practices immigration law in Guilford County, North Carolina at a law firm he started and manages called "Calle Law."

5. Defendant employs a number of paralegals at his law firm, including Claudia Dagnesses ("Dagnesses"), his sister.

6. In addition to working as a paralegal at the firm, Dagnesses also serves as the "Office Manager" of Calle Law.

7. Defendant indicates on his law firm's website that Dagnesses "is often times the first contact [his] clients have with [his] law firm. She oversees many of the every day [sic] tasks that a busy, and rapidly growing, law firm presents. She also works as a case manager for many immigration law cases[.]"

8. In 2013, Mirtila Jannett Ortiz Sanchez ("Sanchez") was in the United States legally and residing in North Carolina under Temporary Protected Status.

9. Sanchez met all of the criteria for permanent residency and only needed an adult relative to file an I-130 Petition for Alien Relative on her behalf in order for her to become a permanent, legal resident of the United States.

10. In 2013, Sanchez's oldest son, Joshua Soberanis ("Soberanis"), became 21 years old and was eligible to file the I-130 Petition on Sanchez's behalf.

11. In September 2014, after Soberanis attempted to file the I-130 Petition on Sanchez's behalf, Sanchez received a checklist from the National Visa Center requesting additional documentation in connection with the I-130 Petition.

12. In September 2014, Sanchez's husband, Wilson Edgardo Soriano Galeas ("Galeas"), contacted Calle Law to obtain assistance in re-filing the I-130 Petition and the related documentation requested by the National Visa Center.

13. When Galeas contacted Calle Law, he spoke with Dagnesses.

14. Based on the actions and representations of Defendant's firm, Sanchez and her family believed that Dagnesses was able to provide them with legal services on behalf of the firm because Dagnesses was the only person with whom they spoke at Calle Law and the only person who provided them with legal services and advice on behalf of the firm.

15. Dagnesses assured Galeas that Calle Law could assist his family in completing and filing the I-130 Petition.

16. Sanchez and Galaes both became clients of Calle Law.

17. On September 24, 2014, Sanchez paid $150.00 to Defendant's law firm with check #1347, paid to the order of "Calle Law, PLLC." This payment was made as a partial payment for professional legal services to be rendered by Calle Law.

18. In September 2014, Sanchez and her son Soberanis met with Dagnesses in person in order to make an additional payment of $350.00 to Calle Law and provide Dagnesses with the documentation that she indicated was necessary in order to complete the I-130 Petition.

19. Dagnesses assisted Sanchez in filling out the required immigration paperwork, including Form I-864, Affidavit of Support Under Section 213A of the Immigration and Nationality Act.

20. On June 10, 2015, Dagnesses sent an email from her Calle Law email address – claudia@calle-law.com – and with her Calle Law signature block to Galeas regarding the cost of the services Calle Law was providing to Sanchez.

21. On June 11, 2015, Dagnesses sent an email to Galeas from her Calle Law email address with an attached questionnaire that Dagnesses indicated she needed Sanchez to complete in order to finalize Sanchez's I-130 Petition application process. In this e-mail, Dagnesses advised Galeas that, if he had any questions he could call "us" at the phone number 336-610-5000.

22. The phone number 336-610-5000 is the phone number for the Calle Law firm and is featured on the firm's letterhead, website, and emails.

23. In June 2015, Sanchez went to Defendant's law office during normal business hours to finalize paperwork and discuss filing the I-130 Petition and any related and required documentation.

24. Upon entering Defendant's law firm at 109 Muirs Chapel Road, Suite 213, Greensboro, NC, 27410, Sanchez was directed to Dagnesses's office within the law firm.

25. Dagnesses gave erroneous legal advice to Sanchez while acting on behalf of and under the employ of Defendant's law firm.

26. Dagnesses advised Sanchez that Sanchez needed to apply for residency from within the borders of her native country of Honduras.

27. Sanchez in fact did not need to apply for residency from Honduras; she could have applied for residency while physically in the United States.

28. Dagnesses also advised Sanchez that Sanchez did not need to ask for permission from immigration authorities to travel to Honduras to apply for residency.

29. Sanchez, in fact, did need to ask for permission from immigration authorities prior to any travel outside of the United States.

30. On June 15, 2015, Sanchez paid $500.00 to Defendant's law firm with check #1033, paid to the order of "Calle Law, PLLC" for "migracion" services.

31. Sanchez's check #1033 was endorsed by Calle Law, PLLC, and the funds from that check were deposited into Calle Law's operating account.

32. On June 22, 2015, Sanchez traveled to Tegucigalpa, Honduras in compliance with the advice and instructions from Dagnesses.

33. After traveling to Honduras and applying for residency, Sanchez discovered that she would be denied residency and prohibited for at least ten years from

returning to the United States where her home and family are because she left the country without seeking permission from U.S. immigration authorities.

34. On January 27, 2016, the Authorized Practice Committee of the North Carolina State Bar issued Dagnesses a Letter of Caution for engaging in the unauthorized practice of law when she gave Sanchez legal advice and assisted or attempted to assist her in completing and filing legal immigration forms.

35. On December 6, 2015, Defendant submitted a response to the State Bar's Letter of Notice and Substance of Grievance, denying that Sanchez was ever a client at Calle Law.

36. Defendant's statement to the State Bar that Sanchez was never a client of Calle Law was false.

37. Defendant knew that his statement to the State Bar that Sanchez was never a client of Calle Law was false.

38. Sanchez was stranded in Honduras and separated from her family with no means of support for eleven months as a result of Defendant's misconduct.

Based on the foregoing Findings of Fact, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All of the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Alvaro De La Calle, and the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

a) By accepting a fee for legal services not provided by an attorney, Defendant collected an illegal fee in violation of Rule 1.5(a);

b) By allowing his nonattorney paralegal to engage in the unauthorized practice of law, Defendant failed to take reasonable measures to ensure that a nonlawyer assistant acted in accordance with the professional obligations of the profession in violation of Rule 5.3(b);

c) By allowing his nonattorney assistant to be held out to Sanchez and Galeas as able to provide them with legal services on behalf of the firm, Defendant made false or misleading communications about his firm's services in violation of Rule 7.1(a);

d) By falsely claiming to the State Bar during the grievance process that Sanchez was never a client of his firm, Defendant knowingly made a false statement in a disciplinary matter in violation of 8.1(a) and engaged in

conduct involving dishonesty or misrepresentation in violation of Rule 8.4(c); and

e) By allowing his paralegal to provide legal services to a North Carolina resident, Defendant assisted another in the unauthorized practice of law in violation of Rule 5.5(f).

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant, for his own financial benefit, permitted his nonattorney paralegal to meet with clients and charge and collect fees from clients on behalf of the firm without properly supervising her.

2. Defendant continued, at various points, to employ his sister at his law firm after she engaged in the unauthorized practice of law.

3. Defendant presented no evidence showing that he implemented procedures at his law firm to properly supervise his nonattorney assistants.

4. Defendant has made no efforts to assist Sanchez and Galeas.

5. Defendant elevated his interests above those of his clients.

6. Sanchez and Galeas, members of the immigrant population in the United States, were particularly vulnerable and in need of correct, professional legal advice to assist them in a delicate citizenship matter.

7. The immigrant population has a tendency to be intimidated by and untrusting toward the American legal profession, a profession with which they are unfamiliar. Defendant's misconduct only serves to damage that population's already tenuous relationship with the legal profession.

8. Defendant's actions negatively impacted the perception Sanchez and Galeas had of the legal profession.

9. Due to Defendant's actions, the victims in this case filed applications that they should not have filed, and then had to hire another attorney to file additional pleadings and motions that were necessary only because of the erroneous legal advice provided by Defendant's law firm and the harm caused thereby, thus creating unnecessary work for the court system and immigration authorities.

10. By hiring Defendant and paying him for legal services, Sanchez was seeking to become a permanent resident of the United States; Defendant's misconduct not only separated her from her family for eleven months, it has put her long-term status in

this country in serious jeopardy. Thus, Defendant's misconduct substantially impaired her ability to achieve the goals of the representation.

11. Sanchez and Galeas incurred at least $7,555.00 in expenses due to Defendant's violations of the Rules of Professional Conduct; these expenses include, but are not limited to: fees paid to Defendant's law firm for the legal services that led to the filing of the Complaint in this matter; the costs of transportation incurred by Sanchez traveling to and in Honduras pursuant to the erroneous legal advice Sanchez received from Defendant's firm; the mailing, notary, and filing fees Sanchez and Galeas had to pay in the course of following the erroneous legal advice they received from Defendant's firm; the fees Sanchez and Galeas have subsequently paid to another North Carolina attorney in an attempt to remedy the damage caused to them by the erroneous legal advice they received from Defendant's firm; and the administrative fees Sanchez and Galeas had to pay upon Sanchez's return to the country.

12. The expenses described herein are a small portion of the financial harm Sanchez and Galeas suffered as a result of Defendant's misconduct; the costs in terms of lost wages, additional childcare expenses due to Sanchez's absence from this country for eleven months, and future legal fees are substantially higher than those calculated herein.

13. Sanchez and Galaes and their children suffered severe emotional trauma due to their family being torn apart and separated for eleven months as a result of Defendant's misconduct.

14. Defendant has made no efforts to ease the suffering of Sanchez and Galeas or their family; specifically, Defendant has not refunded any of the fees Sanchez and Galeas paid to his firm or made any efforts to reimburse them for the financial hardship his misconduct caused them.

15. Defendant has consistently refused to apologize to Sanchez and Galeas or their family or display any remorse.

16. Defendant has consistently refused to acknowledge the wrongful nature of his conduct.

17. Defendant's actions deprived three children of their mother and a hospital of their ten-year employee for eleven months.

18. At the hearing in this matter, Defendant repeatedly exhibited a lack of concern or appreciation for his license to practice law in North Carolina; he stated numerous times that he did not care about his license and, in fact, surrendered his North Carolina State Bar lawyer identification card to the Hearing Panel prior to the Panel's deliberation regarding discipline.

19. Defendant sent numerous incoherent and emotional emails to the State Bar prior to the hearing in this matter wherein he (i) alleged that various parties, including the State Bar, were conspiring against him; (ii) made various demands for the personal information of State Bar employees; and (iii) issued "ultimatums" to Plaintiff's counsel,

threatening to "go to the media" and surrender his license prior to trial if Plaintiff's counsel failed to take certain actions.

20. During the hearing in this matter, Defendant used unprofessional and coarse language while on the stand and on more than one occasion spoke out of turn or shouted interjections to the Panel apart from making any substantive objection.

21. During the hearing in this matter, Defendant made numerous statements while testifying under oath that were directly contrary to his deposition testimony.

22. Defendant's communications with the State Bar and his behavior during the hearing in this matter demonstrate that he is emotionally labile and that his behavior is erratic. This raises concerns about whether his professional competence, performance, or judgment may be impaired.

Based on the foregoing Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the Hearing Panel enters the following

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1), (2) and (3) of the Rules and Regulations of the State Bar, and concludes that the following factors are applicable:

27 N.C.A.C. 1B § .0114(w)(1)

a. Factor (B), Intent of Defendant to commit acts where the harm or potential harm is foreseeable;

b. Factor (C), Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;

c. Factor (D), Elevation of Defendant's own interest above that of the client;

d. Factor (E), Negative impact of Defendant's actions on client's or public's perception of the profession;

e. Factor (F), Negative impact of Defendant's actions on the administration of justice;

f. Factor (G), Impairment of the client's ability to achieve the goals of the representation;

g. Factor (H), Effect of Defendant's conduct on third parties;

h. Factor (I), Acts of dishonesty, misrepresentation, deceit, or fabrication;

27 N.C.A.C. 1B § .0114(w)(2)

a. Factor (A), Acts of dishonesty, misrepresentation, deceit, or fabrication; and

b. Factor (B), Impulsive acts of dishonesty, misrepresentation, deceit, or fabrication without timely remedial efforts

27 N.C.A.C. 1B § .0114(w)(3)

a. Factor (C), Dishonest or selfish motive;

b. Factor (E), Indifference to making restitution;

c. Factor (G), Multiple offenses;

d. Factor (N), Submission of false evidence, false statements, or other deceptive practices during the disciplinary process;

e. Factor (O), Refusal to acknowledge wrongful nature of conduct; and

f. Factor (R), Vulnerability of victim.

2. Although the Hearing Panel determined two of the factors under 27 N.C.A.C. 1B § .0114(w)(2) to be present, the Hearing Panel concluded that disbarment was not warranted in light of all of the circumstances of the case.

3. The Hearing Panel considered all of the disciplinary options available to it and determined that imposition of a suspension is appropriate.

4. The Hearing Panel considered all lesser sanctions and concluded that discipline short of an active suspension would not adequately protect the public. Imposition of a lesser discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to members of the Bar and the public regarding the conduct expected of members of the Bar of this State.

5. Given Defendant's attitude, his demonstrated lack of appreciation for his license to practice law, his refusal to apologize, his refusal to acknowledge the wrongful nature of his conduct, and his refusal to take any remedial steps to help the victims of his misconduct, it is evident to the Panel that Defendant is a danger to the public and that, if he is permitted to continue to practice law unabated, it is likely that the public will be harmed.

6. To protect the public, if Defendant ever does practice law again, he needs supervision, accountability, and monitoring regarding the methods and means through which he provides legal services to his clients and the manner in which he supervises his nonlawyer assistants.

7. To protect the public, Defendant should be required to establish—prior to returning to the practice of law—that his professional performance, judgment, and competence are not impaired by any physical or mental condition.

8. Defendant should be required to reimburse Sanchez and Galeas a small portion of the expenses his misconduct caused them.

9. To protect the public, Defendant should be required to attain additional professional knowledge and guidance in how to practice law, specifically concerning immigration law and the management of nonlawyer assistants.

Based on the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Alvaro De La Calle, is hereby SUSPENDED from the practice of law for five years, effective 30 days from service of this Order upon Defendant.

2. Defendant is taxed with the costs and administrative fees of this action, including the costs of the depositions, as assessed by the Secretary. Defendant shall be served with a statement of costs and fees. Defendant shall pay the costs within 30 days of service of the statement of costs upon him.

3. Defendant shall surrender his law license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this Order upon him.

4. Defendant shall comply with the wind down provisions of 27 N.C.A.C. 1B § .0124 of the State Bar Rules.

5. Within 15 days of the effective date of this Order, Defendant shall provide the State Bar's Office of Counsel with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain such files, and Defendant shall promptly provide client files to all clients who request return of their files.

6. Defendant shall return client files to clients within five days of receipt of request. Defendant will be deemed to have received any such request three days after the date the request is sent to him if the request is sent to the address Defendant provided the State Bar pursuant to this Order.

7. After serving the period of suspension, Defendant may apply for reinstatement of his license to practice law by filing a verified petition with the Executive Director of the State Bar demonstrating by clear, cogent, and convincing evidence that Defendant has met all requirements for reinstatement set out in 27 N.C.A.C. 1B § .0125(b), and has complied with each of the following:

a. Defendant paid all administrative fees and costs of this proceeding as assessed by the Secretary within 30 days after service of the statement of costs on him;

b. Defendant maintained, each year during the period of his suspension, all of the annual Continuing Legal Education ("CLE") requirements as required by the State Bar of actively licensed attorneys. Defendant shall have the burden of establishing by clear and convincing evidence, at the time he seeks reinstatement, that he completed these courses each year of his suspension;

c. Defendant completed, during the period of his suspension, six additional hours of CLE courses each year of his suspension: three hours on the topic of law practice management and three hours on the topic of immigration law. Defendant shall have the burden of establishing by clear and convincing evidence, at the time he seeks reinstatement, that he completed these courses each year of his suspension. These courses are in addition to the normal CLE requirements as set forth in 27 N.C.A.C. 1D § .1518 and required of Defendant by paragraph (b);

d. Within 30 days of the effective date of this Order, Defendant paid $7,555.00 to Wilson Galeas and Mirtila Sanchez as partial restitution for the expenses they incurred as a result of Defendant's misconduct;

e. Within two months prior to filing any petition for reinstatement, Defendant was evaluated, at his own expense, by a board certified psychiatrist or psychologist approved by the North Carolina State Bar for the purpose of determining whether Defendant has any mental or psychological impairment, addiction, personality disorder, or other condition or illness. The evaluating clinician must not be and must not have ever been a provider from whom Defendant receives or received treatment;

f. Defendant obtained a written report from the evaluating clinician described in paragraph (e) setting forth: (i) the findings of the examination; (ii) the clinician's opinion as to whether Defendant has any physical or mental impairment, addiction, personality disorder, or other condition or illness that could adversely affect his ability to practice law; and (iii) the clinician's recommendations, if any, regarding ongoing treatment;

g. Prior to or at the time of filing his petition, Defendant provided a copy of the clinician's report described in paragraph (f) to the Office of Counsel of the State Bar, and executed a written release authorizing the examining clinician to provide medical records to, and communicate with, the Office of Counsel regarding the substance of the evaluation and report;

h. Defendant shall have the burden of establishing by clear and convincing evidence that, at the time he seeks reinstatement, he does not have any physical or mental impairment, addiction, personality disorder, or other condition or illness that significantly impairs his professional performance, judgment, or competence; and

i. Defendant shall have arranged for and entered into a binding contract with an active member of the North Carolina State Bar who is in good standing who practices law in the county in which Defendant will primarily practice and who was approved by the North Carolina State Bar in advance to serve as his practice monitor for two years, starting immediately upon Defendant's reinstatement. The selected monitor shall have agreed to serve in this capacity and to meet with Defendant twice monthly to review Defendant's cases. The contract shall require that, two times each month, the monitor must go over each of Defendant's cases in detail, with discussion including but not limited to identification of applicable statutory and regulatory authorities, identification of potential legal issues, plan of representation, and the appropriate roles of Defendant's nonlawyer assistants in each case. The contract shall require that Defendant shall come prepared twice each month to discuss these topics in his cases with his practice monitor. The contract shall require that the monitor submit written quarterly reports of these meetings and discussions to the Office of Counsel, such reports due on the following dates as they occur during the two years of the monitoring: October 15, January 15, April 15, and July 15. The contract shall require that this monitoring occur continuously for two years. The contract shall require that Defendant pay all costs, if any, charged by the monitor. Prior to filing his petition for reinstatement, Defendant must have (i) made the arrangements for this monitoring attorney, (ii) entered into a binding contract with the same, and (iii) supplied the Office of Counsel with a letter from the monitoring attorney confirming his or her agreement to perform the duties listed above as well as a copy of the executed contract between Defendant and the monitoring attorney.

Signed by the Chair with the consent of the other Hearing Panel members, this the 2nd day of February 2017.

R. Lee Farmer
Chair, Disciplinary Hearing Panel