

**BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL	:	No. 27 DB 2016
Petitioner	:	
	:	File No. C1-14-1055
v.	:	
	:	Attorney Registration No. 39879
ANDRE MICHNIAK	:	
Respondent	:	(Philadelphia)

**PUBLIC REPRIMAND**

Andre Michniak, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a Public Reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline.

Mr. Michniak, you are being reprimanded for your misconduct in connection with your representation of Maria Picardo-Vargas, who retained you for the purpose of obtaining an Employment Authorization Document ("EAD") and re-registering for Temporary Protective Status ("TPS"). You did not inform your client that you did not carry malpractice insurance. The TPS re-registration period for Ms. Vargas was from April 3, 2013 to June 3, 2013. On or about May 3, 2013, Ms. Vargas completed the necessary paperwork to renew her TPS and obtain the EAD. Ms. Vargas paid you \$815, which was for filing fees and legal fees. Because the total amount paid to you included filing fees, the total amount was required to be placed in a trust account, which you failed to do.

You failed to timely file the necessary paperwork with the United States Customs and Immigration Service ("USCIS"). As a result of your failure to timely file, Ms. Vargas lost her TPS. Ms. Vargas contacted you by letter and you failed to respond.

Ms. Vargas filed a disciplinary complaint against you in September 2014. Disciplinary Counsel contacted you about this matter and based on the representations made by you, through your attorney, that the matter was being handled, the complaint was dismissed. These representations included that the requisite documents had been sent to the USCIS on September 9, 2014, prior to the date Ms. Vargas filed her complaint. In actuality, these documents had not been sent to USCIS. You later explained that when you made the assertion to Disciplinary Counsel, you believed the documents had been filed and your misrepresentation was not intentional. The record shows that you made Ms. Vargas monetarily whole. Although not required to do so, you have obtained malpractice insurance.

Your conduct in this matter has violated the following Rules of Professional Conduct:

1. RPC 1.1 – A lawyer shall provide competent representation to a client.
2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.
3. RPC 1.4(a)(3) and (4) – A lawyer shall keep the client reasonably informed about the status of the matter and shall promptly comply with reasonable requests for information.
4. RPC 1.4(c) – A lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year.

5. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.
6. RPC 5.3(b) – A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.
7. RPC 8.1(b) – A lawyer in connection with a disciplinary matter shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from disciplinary authority.
8. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

The record shows that you received professional discipline in the form of an Informal Admonition on April 8, 2011 and a Public Reprimand with two years of probation and conditions related to mental healthcare on October 14, 2014.

In explanation of the instant misconduct, you have divulged that you are experiencing various personal difficulties, you suffer from depression and have reinitiated counseling sessions with a mental health provider. While these difficulties do not excuse your misconduct, it is for these reasons that an additional term of probation for two years with continued mental health treatment has been imposed as part of the

discipline in this matter. This additional probation will commence on September 1, 2016.

Mr. Michniak, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and Rules of Disciplinary Enforcement. This Public Reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be mindful that any future dereliction, including violation of the conditions of your probation, will subject you to disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board's website at [www.padisciplinaryboard.org](http://www.padisciplinaryboard.org).

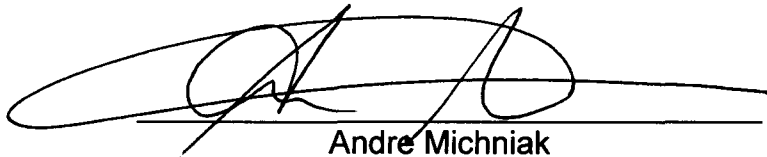
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

Designated Member  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Philadelphia, Pennsylvania, on April 14, 2016.

### **ACKNOWLEDGMENT**

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in his presence and in the presence of the designated panel of The Disciplinary Board at 1601 Market Street, Suite 3320, Philadelphia, Pennsylvania, on April 14, 2016.



Andre Michniak