

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: June 11, 2014 CASE NUMBER: 2013SA291
Original Proceeding in Unauthorized Practice of Law, Office of Attorney Regulation Counsel, 13UPL3	
Petitioner: Office of Attorney Regulation Counsel, v. Respondent: Marisela Ornelas, #UP787, d/b/a/ Azteca America Income Tax Service.	Supreme Court Case No: 2013SA291
ORDER OF COURT	

Upon consideration of the Report of Hearing Master Pursuant to C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that Respondent, MARISELA ORNELAS, #UP787, d/b/a AZTCA AMERICA INCOME TAX SERVICE, shall be, and the same hereby is, ENJOINED from engaging in the Unauthorized Practice of Law in the State of Colorado.

IT IS FURTHER ORDERED that Respondent, MARISELA ORNELAS, #UP787, d/b/a AZTCA AMERICA INCOME TAX SERVICE is assessed Costs in the amount of \$91.00. Said costs to be paid to the Office of Attorney Regulation Counsel, within (28) days of the date of this order.

IT IS FURTHER ORDERED that Restitution be imposed in the amount of \$1,750.00, plus interest of \$779.69 through April 30, 2014, plus \$3.8 per diem thereafter, to Chris and Esmeralda Estrada, as further detailed in the stipulation.

IT IS FURTHER ORDERED that this court WAIVES any fines in this matter pursuant to C.R.C.P. 236(a).

BY THE COURT, JUNE 9, 2014.

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: MARISELA ORNELAS, #UP787, d/b/a AZTECA AMERICA INCOME TAX SERVICE</p>	<p>Case Number: 13SA291</p>
<p>REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)</p>	

This matter is before the Presiding Disciplinary Judge (“the PDJ”) on an order issued by the Colorado Supreme Court on December 31, 2013, referring this matter to the PDJ “for findings of fact, conclusions of law, and recommendations” pursuant to C.R.C.P. 234(f) and 236(a).

I. BACKGROUND AND STIPULATION

On November 5, 2013, Kim E. Ikeler, Office of Attorney Regulation Counsel (“the People”), filed an “Amended Petition for Injunction” against Marisela Ornelas, #UP787, d/b/a Azteca America Income Tax Service (“Respondent”), alleging she engaged in the unauthorized practice of law. Respondent responded on December 2, 2013.

The PDJ held an at-issue conference in this matter on January 16, 2014. Mr. Ikeler appeared for the People, and Respondent appeared pro se by telephone. During the at-issue conference, a one-day hearing was set for May 12, 2014. On April 11, 2014, the PDJ held a prehearing conference. Mr. Ikeler and Alan Obye appeared on behalf of the People, and Kathryn Keasler-Crooks entered her appearance and participated in the conference by telephone on behalf of Respondent, who did not appear.

On April 28, 2014, the parties filed a “Stipulation, Agreement and Affidavit Consenting to an Order of Injunction.” In the stipulation, Respondent admits she engaged in the unauthorized practice of law and agrees to be enjoined from the practice of law. She agrees to pay costs in the amount of \$91.00 within twenty-eight days after the Colorado Supreme Court approves the stipulation. Within that same timeframe, she also agrees to pay

restitution to Chris and Esmeralda Estrada of \$1,750.00, plus interest of \$779.69 through April 30, 2014, plus \$.38 *per diem* thereafter.

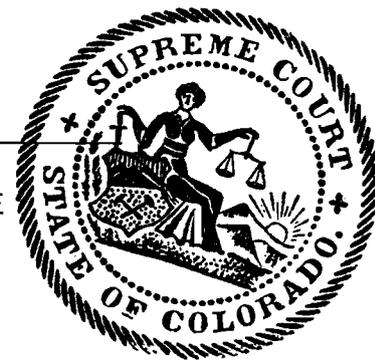
II. ORDER AND RECOMMENDATION

The PDJ **ACCEPTS** the parties' stipulation and **FINDS** that Respondent engaged in the unauthorized practice of law. Subject to the Colorado Supreme Court's approval of the stipulation, the PDJ **VACATES** the hearing on May 12, 2014.

The PDJ **RECOMMENDS** that the Colorado Supreme Court **APPROVE** the stipulation and **ENJOIN** Marisela Ornelas, #UP787, d/b/a Azteca America Income Tax Service, from the unauthorized practice of law. The PDJ also **RECOMMENDS** that the Colorado Supreme Court **ORDER** Respondent to pay, within twenty-eight days of its order, **COSTS** of \$91.00 to the People and **RESTITUTION** of \$1,750.00, plus interest of \$779.69 through April 30, 2014, plus \$.38 *per diem* thereafter, to Chris and Esmeralda Estrada, as further detailed in the stipulation. Finally, the PDJ **RECOMMENDS** that the Colorado Supreme Court **WAIVE** any **FINE** pursuant to C.R.C.P. 236(a).¹

DATED THIS 29th DAY OF APRIL, 2014.


WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE



Copies to:

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Alan C. Obye
Office of Attorney Regulation Counsel

Via Hand Delivery

Kathryn Keasler-Crooks
Counsel for Respondent
kathyk_c@q.com

Via Email

Christopher T. Ryan
Colorado Supreme Court

Via Hand Delivery

¹ "A report from the Presiding Disciplinary Judge approving the parties' stipulation to injunction may be exempt from a fine."

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW BEFORE THE PRESIDING
DISCIPLINARY JUDGE
1300 Broadway, Suite 250
Denver, Colorado 80203

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

Respondent:
MARISELA ORNELAS, d/b/a AZTECA AMERICA
INCOME TAX SERVICE

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FILED

APR 28 2014

PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF COLORADO

▲ COURT USE
ONLY ▲

Case Number:
13SA291

**STIPULATION, AGREEMENT AND AFFIDAVIT CONSENTING TO AN
ORDER OF INJUNCTION**

On this 28th day of April 2014, Kim E. Ikeler, Assistant Regulation Counsel, and Alan Obye, Staff Attorney, and Marisela Ornelas, Respondent, who is represented in this matter by Kathryn Keasler-Crooks, enter into the following stipulation, agreement, and affidavit consenting to entry of an order of injunction

("stipulation"), and submit the same to the Presiding Disciplinary Judge for a finding and recommendation to the Colorado Supreme Court that it enter an order of injunction pursuant to C.R.C.P. 229-237.

1. The Respondent resides at 1 Road 6367, Kirtland, NM 87417. The Respondent is not licensed to practice law in the State of Colorado or any state. Nor is she an accredited representative of an organization approved by the Board of Immigration Appeals. As a result, she is not authorized to represent others before the Department of Homeland Security. 8 C.F.R. § 292.1.

2. The Respondent enters into this stipulation freely and voluntarily. No promises have been made concerning future consideration, punishment, or lenience in the above-referenced matter. It is the Respondent's personal decision, and the Respondent affirms there has been no coercion or other intimidating acts by any person or agency concerning this matter.

3. The Respondent is familiar with the rules of the Colorado Supreme Court regarding the unauthorized practice of law. The Respondent acknowledges the right to a full and complete evidentiary hearing on the above-referenced petition for injunction. At any such hearing, the Respondent would have the right to be represented by counsel, present evidence, call witnesses, and cross-examine the witnesses presented by the Petitioner. At any such formal hearing, the Petitioner would have the burden of proof and would be required to prove the charges contained in the petition for injunction by a preponderance of the evidence. Nonetheless having full knowledge of the right to such a formal hearing, the Respondent waives that right.

4. The Respondent understands that the practice of law in Colorado includes, but is not limited to, the following:

a. providing advice to any other individual on the legal effect of any proposed action in a legal matter; or assisting that individual in making decisions that require legal judgment and a knowledge of the law that is greater than the average citizen;

b. providing advice to any other individual as to various legal remedies available to that individual and the possible legal courses of action for that individual;

c. acting in a representative capacity on behalf of any other individual in matters that affect that individual's legal rights and duties;

d. selecting or preparing any legal document for any other individual, other than solely as a typist; and, without limiting the above, explaining to that individual or any other individual the legal significance of such document;

e. holding oneself out as an attorney, lawyer, "esquire", immigration consultant, or legal consultant, either directly or impliedly;

f. holding oneself out to others in a manner that another individual would place some reliance on the Respondent to handle that individual's legal matters;

g. advertising oneself as an immigration consultant, or being able to select and prepare immigration paperwork on behalf of others (without U.S.B.I.A. accreditation);

h. making an appearance or speaking on behalf of another individual in negotiations, settlement conferences, mediations, hearings, trials, oral arguments or other legal proceedings unless specifically allowed by the rules that apply to such appearance in such legal proceeding;

i. serving as a conduit or intermediary on behalf of any other individual for the obtaining or relaying of any legal counsel;

j. conducting the business of management of a law practice to the extent that the exercise of legal judgment on behalf of another occurs; and

k. soliciting or accepting any fees for legal services.

5. The Respondent and the Petitioner stipulate to the following facts and conclusions:

a. Esmeralda Arpiez de Estrada is a Mexican national. She entered the U.S. on a visa in February 2001. She overstayed her visa. She met Chris Estrada, a U.S. citizen. They married. Since then, they have resided in Cortez, Colorado. Ms. Estrada wished to adjust her status to legal permanent resident.

b. Respondent operated an office in Cortez, Colorado, offering immigration and tax services. Mr. and Ms. Estrada turned to Respondent for help. In 2005, they met with Respondent at her Cortez office. Respondent told them she could help with their immigration matter. She described the process of adjusting status and advised them regarding the steps Ms. Estrada would need to take.

c. Respondent presented the Estradas with a one page document, entitled "Ciudadano Aplicando Para Su Familia".¹ Under a heading "Petición de Familia", boxes were checked to indicate that Respondent would select and prepare Forms I-130, I-485, and I-765. The document listed USCIS fees that were required for each of these forms.

d. The couple provided Respondent with information and documents she requested, such as tax returns and social security information. Work on the immigration forms ceased for a period during which Ms. Ornelas closed her business in Cortez, Colorado.

e. The Estradas again turned to Respondent for help with their immigration process. On or about November 10, 2009, Respondent prepared and signed as preparer a Form I-485, Application to Register Permanent Residence or Adjust Status, and a Form I-131, Application for Travel Document, for Ms. Estrada. Respondent also prepared a Form I-864, Affidavit of Support, to accompany the Form I-485. On or about the same date, Respondent prepared and signed as the preparer a Form I-130, Petition for Alien Relative, for Mr. Estrada, so that he could sponsor his wife. Respondent advised the Estradas that they needed to send the forms listed in this paragraph 5(e) to USCIS. Mr. Estrada and Ms. Estrada signed what Respondent had prepared. They mailed the forms to USCIS, along with the required fees.

f. On December 30, 2009, USCIS sent Ms. Estrada a Request for Initial Evidence – I-485 ("Request for Evidence"). The Request for Evidence informed Ms. Estrada that USCIS was unable to process the Form I-485, prepared by Respondent, because USCIS lacked certain information. The Request for Evidence instructed Ms. Estrada to submit the information within 87 days. The Request for Evidence directed Ms. Estrada to resubmit the Form I-864, Affidavit of Support, using the current form. The Request for Evidence also directed Ms. Estrada to supply a copy of her birth certificate. Ms. Estrada brought the Request for Evidence to Respondent and asked her advice on how to proceed.

¹ In English: "Citizen Applying for Your Family".

g. On or about February 1, 2010, Respondent prepared and signed as the preparer a Form I-765, Application for Employment Authorization, for Ms. Estrada. Respondent advised Ms. Estrada to submit this form to USCIS. The Form I-765 was sent to USCIS, along with the appropriate fee. On March 6, 2010, Respondent prepared and submitted a Form I-864 (Rev. 10/18/07), Affidavit of Support. This was the current form USCIS had requested in the Request for Evidence.

h. On March 15, 2010, USCIS received the completed and signed Form I-864, Affidavit of Support. However, USCIS did not receive a copy of Ms. Estrada's birth certificate, for which it had asked in the Request for Evidence.

i. USCIS determined to deny Ms. Estrada's request to adjust status. On April 23, 2010, Robert M. Cowan, a Director with USCIS, issued a Notice of Decision (the "2010 Notice of Decision"). He sent it to Ms. Estrada. The 2010 Notice of Decision denied the Form I-485, Application to Register Permanent Residence or Adjust Status, which Ms. Estrada had submitted. The 2010 Notice of Decision also denied any pending Form I-765, Application for Employment Authorization, and any pending Form I-131, Application for Travel Document. Director Cowan informed Ms. Estrada that she was present in the U.S. illegally and subject to removal proceedings if she did not voluntarily depart.

j. The Estradas were harmed by the delay in adjusting Ms. Estrada's status resulting from USCIS' denial of the immigration forms Respondent prepared, described above.

k. Respondent admits and stipulates that by her conduct, described above, she engaged in the unauthorized practice of law.

l. The Estradas claim that they compensated Respondent in the amount of \$1,750 for her services, including her selection and preparation of immigration forms, described above.

6. The Respondent has read and studied the petition for injunction and is familiar with the allegations therein, and a true and correct copy of the petition for injunction is attached to this stipulation as Exhibit A.

7. Respondent stipulates that, as part of and as a result of her unauthorized practice of law, Respondent collected fees of \$1,750 from the Estradas. Pursuant

to C.R.C.P. 237(a), those fees should be refunded. Respondent agrees to fully refund \$1,750 to the Estradas within 28 days of the Supreme Court's entry of an Order enjoining Respondent based on the recommendation of the Presiding Disciplinary Judge. Respondent further agrees to pay the Estradas interest at the statutory rate on the collected fee from the date collected until the date paid. Respondent will refund to the Estradas principal of \$1,750, plus interest of \$779.69 through April 30, 2014, plus \$.38 *per diem* thereafter, by sending a certified check or money order for the full refund to the Estradas c/o Paul Padilla, Esq., P.O. Box 2835, Durango, CO 81302. Respondent also will contemporaneously provide to the Office of Attorney Regulation Counsel, attention to Assistant Regulation Counsel Kim E. Ikeler, a copy of Respondent's letter transmitting the refund and a copy of the cashier's check or money order by which the refund is made. The Office of Attorney Regulation Counsel may contact attorney Padilla and confirm his receipt of the full refund from Respondent. Respondent's failure to timely comply with the requirements of this paragraph will constitute a breach of this Agreement, following which the Committee may take appropriate action pursuant to C.R.C.P. 232.5(d).

8. Pursuant to C.R.C.P. 251.32, Respondent agrees to pay administrative costs in the sum of \$91 incurred in conjunction with this matter within twenty-eight (28) days after the entry of an Order by the Colorado Supreme Court assessing costs.

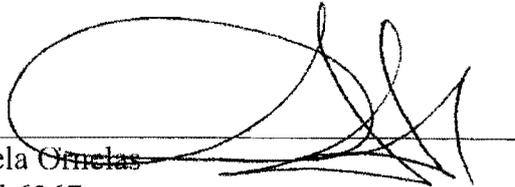
9. Based on Respondent's cooperation during the investigation and agreement to terms of the within Stipulation, Petitioner requests that the Presiding Disciplinary Judge exempt this case from a fine, pursuant to C.R.C.P. 236(a).

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**RECOMMENDATION FOR AND CONSENT TO ORDER OF
INJUNCTION**

Based on the foregoing, the parties hereto ask the Presiding Disciplinary Judge to find that Respondent engaged in the unauthorized practice of law and recommend to the Colorado Supreme Court that an order be entered enjoining the Respondent from the unauthorized practice of law. The parties further ask the Presiding Disciplinary Judge to recommend that the Supreme Court order Respondent to pay \$1,750, plus interest of \$779.69 through April 30, 2014, plus \$.38 *per diem* thereafter, as restitution to Chris and Esmeralda Estrada. The parties further ask for a recommendation that Respondent be assessed \$91 in costs.

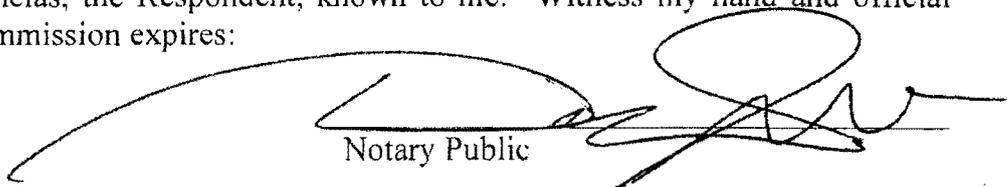
Marisela Ornelas, the Respondent; her counsel, Kathryn Keaseler-Crooks, and Kim E. Ikeler, attorney for Petitioner, acknowledge by signing this document that they have read and reviewed the above.



Marisela Ornelas
1 Road 6367
Kirkland, NM 87417
Respondent

STATE OF NEW MEXICO)
) ss:
COUNTY OF SAN JUAN)

Subscribed and sworn to before me this 28th day of April 2014, by Marisela Ornelas, the Respondent, known to me. Witness my hand and official seal. My commission expires:

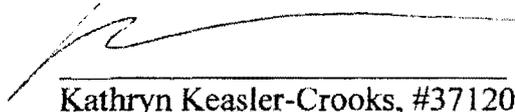


Notary Public

 OFFICIAL SEAL
Dylan Jenks
NOTARY PUBLIC - STATE OF NEW MEXICO
My Commission Expires: 02/22/17



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