

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOHN ANTHONY GARCIA,

Respondent.

Supreme Court Case  
No. SC-

The Florida Bar File  
No. 2013-51,450(15D)OSC

**PETITION FOR CONTEMPT AND ORDER TO SHOW CAUSE**

COMES NOW, The Florida Bar, by and through its undersigned attorney, pursuant to Rule 3-7.7(g), and petitions the Supreme Court of Florida to enter an Order to Show Cause why the respondent herein should not be held in contempt of this Court's order dated March 4, 2008, entered in Supreme Court Case Number SC06-2411, and why he should not be permanently disbarred from the practice of law in Florida. In support of its petition, The Florida Bar would show as follows:

1. Respondent was disbarred from the practice of law by Supreme Court Order dated March 4, 2008 in Supreme Court Case Number SC06-2411. A copy of the order is attached hereto as **Exhibit A**.

2. Notwithstanding respondent's status as a disbarred attorney, he has acted in contempt of the Supreme Court of Florida, and continued to practice law.

3. In or about April 2012, The Florida Bar received a sworn complaint from Jose Villanueva, detailing respondent's continued practice of law after his disbarment. Specifically, Mr. Villanueva states that on or about August 25, 2011, he hired respondent to handle an IRS matter for which he paid respondent \$500.00. A copy of Mr. Villanueva's complaint is attached hereto as **Exhibit B**.

4. Mr. Villanueva received a receipt from respondent for the \$500. A copy of the receipt is attached hereto as **Exhibit C**.

5. Respondent also provided Mr. Villanueva a business card which refers to respondent as "Legal Consultant". A copy of respondent's business card is attached hereto as **Exhibit D**.

6. The obvious implication from the business card is that respondent can consult on legal matters. See: The Florida Bar v. Warren, 655 So. 2d 1131, 1132 (Fla. 1995), enjoining the use of any title "that is designed to lead a member of the public into believing that respondent is licensed to practice law in Florida and able to render assistance with legal matters"; The Florida Bar v. Davide, 702 So. 2d 184, 185 (Fla. 1997), enjoining a nonlawyer from using the name Florida Law Center, Inc., "or any other name that could mislead the public to believe that the business can render legal services"; and The Florida Bar v. Miravalle, 761 So. 2d 1049, 1052

(Fla. 2000), enjoining a nonlawyer from using the word “legal” in business names and advertisements.

7. Respondent provided a response, dated July 31, 2012, to Mr. Villanueva’s complaint. Respondent admits therein that Mr. Villanueva was brought to respondent’s office for the purpose of reviewing paperwork and contacting the Internal Revenue Service on Mr. Villanueva’s behalf to assist him with certain tax liens. A copy of respondent’s response is attached hereto as **Exhibit E**.

8. In The Florida Bar ex rel. Wolf, 21 So. 3d 15, 17 (Fla. 2009), this Court stated:

In State ex rel. Florida Bar v. Sperry, 140 So.2d 587, 591 (Fla.1962), vacated on other grounds, 373 U.S. 379, 83 S.Ct. 1322, 10 L.Ed.2d 428 (1963), we defined the practice of law as follows:

We think that in determining whether the giving of advice and counsel and the performance of services in legal matters for compensation constitute the practice of law it is safe to follow the rule that if the giving of such advice and performance of such services affect important rights of a person under the law, and if the reasonable protection of the rights and property of those advised and served requires that the persons giving such advice possess legal skill and a knowledge of the law greater than that possessed by the average citizen, then the giving of such advice and the performance of such services by one for another as a course of conduct constitute the practice of law.

9. Clear violation of any order or disciplinary status that denies an attorney the license to practice law is generally punishable by disbarment, absent strong extenuating circumstances. The Florida Bar v. Forrester, 916 So. 2d 647 (Fla. 2005); The Florida Bar v. Heptner, 887 So. 2d 1036 (Fla. 2004); The Florida Bar v. Rood, 678 So. 2d 1277 (Fla. 1996); The Florida Bar v. McAtee, 674 So. 2d 734 (Fla. 1996); The Florida Bar v. Brown, 635 So. 2d 13 (Fla. 1994).

10. Where an attorney continues to practice even after being disbarred, permanent disbarment is warranted. The Florida Bar v. Neely, 675 So.2d 592 (Fla. 1996); The Florida Bar v. Kandekore, 932 So. 2d 1005 (Fla. 2006).

WHEREFORE, The Florida Bar respectfully requests this Court enter an order compelling John Anthony Garcia to show cause why John Anthony Garcia should not be held in contempt of this Court's Order and permanently disbarred.

Respectfully submitted,



Michael David Soifer, Bar Counsel  
The Florida Bar  
Lake Shore Plaza II  
1300 Concord Terrace, Suite 130  
Sunrise, Florida 33323  
(954) 835-0233  
Florida Bar No. 545856  
[msoifer@flabar.org](mailto:msoifer@flabar.org)  
[imgarcia@flabar.org](mailto:imgarcia@flabar.org)

**CERTIFICATE OF SERVICE**

I certify that this document has been E-filed with The Honorable Thomas D. Hall, Clerk of the Supreme Court of Florida, using the E-Filing Portal and that a copy has been furnished by Certified Mail No. 7012 2920 0001 7912 3749, Return Receipt Requested to Respondent, John Anthony Garcia, at his record Bar address of John A. Garcia P.A., 1615 Forum Place, Suite 4B, West Palm Beach, Florida 33401-2317 and to his record Bar e-mail address of [JGarcia692@aol.com](mailto:JGarcia692@aol.com); and to Staff Counsel, The Florida Bar, at his designated e-mail address of [kmarvin@flabar.org](mailto:kmarvin@flabar.org) on this 15th day of August, 2013.



Michael David Soifer, Bar Counsel

**CERTIFICATE OF TYPE, SIZE AND STYLE**

I certify that the Petition for Contempt and Order to Show Cause of The Florida Bar is submitted in 14 point proportionately spaced Times New Roman font in Microsoft Word format.



Michael David Soifer, Bar Counsel

**NOTICE OF DESIGNATION OF PRIMARY E-MAIL ADDRESS**

PLEASE TAKE NOTICE that Bar Counsel in this matter is Michael David Soifer, whose address, telephone number and primary and secondary e-mail addresses are The Florida Bar, Lake Shore Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323, (954) 835-0233, [msoifer@flabar.org](mailto:msoifer@flabar.org) and [imgarcia@flabar.org](mailto:imgarcia@flabar.org). Respondent need not to address pleadings, correspondence, etc. in this matter to anyone other than Bar Counsel and to Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, [kmarvin@flabar.org](mailto:kmarvin@flabar.org).

# Supreme Court of Florida

TUESDAY, MARCH 4, 2008

CASE NO.: SC06-2411

Lower Tribunal No(s): 2007-50,336(15D)FFC

THE FLORIDA BAR

vs. JOHN ANTHONY GARCIA

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Complainant(s)

Respondent(s)

The report of the referee is approved and respondent is disbarred. The disbarment is effective, nunc pro tunc, January 13, 2007. See Fla. Bar v. Garcia, Case No. SC06-2411 (Fla. Dec. 15, 2006).

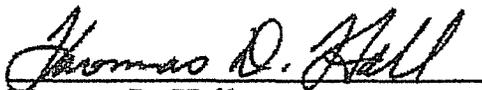
Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from John Anthony Garcia in the amount of \$1,833.56, for which sum let execution issue.

Not final until time expires to file motion for rehearing, and if filed, determined.

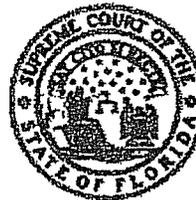
LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

A True Copy

Test:



Thomas D. Hall  
Clerk, Supreme Court



cic

Served:

HON. MICHAEL L. GATES, JUDGE  
KENNETH LAWRENCE MARVIN  
MICHAEL DAVID SOIFER  
G. MICHAEL KEENAN

The Florida Bar  
Exhibit A

1 

## Unlicensed Practice of Law Inquiry/Complaint Form

Your Name: Jose W. Villanueva  
 Address: 4500 Flows Way  
 City: Lake Worth  
 State: Florida  
 Zip Code: 33461  
 Telephone: 561-401-3011

Nonlawyer's Name: John Anthony Garcia  
 Address: 1615 Forum Place, Suite 4-B  
 City: West Palm Beach  
 State: FL.  
 Zip Code: 33401  
 Telephone: 561-602-7684

DESCRIBE YOUR COMPLAINT, PROVIDE DATES AND FACTS OF ALLEGED MISCONDUCT AND ATTACH A COPY OF RELEVANT DOCUMENTS. (Use a separate sheet if necessary. Do not write on the back of this form!)

Mr. John Anthony Garcia told me that he was a lawyer and his staff treated him as a lawyer. On or about

August 25, 2011, I hired Mr. Garcia to handle an IRS matter for me. He said that he would take care of the matter in three months. On that day, I paid him \$500.00 dollars. The total amount would be paid as he worked on the case.

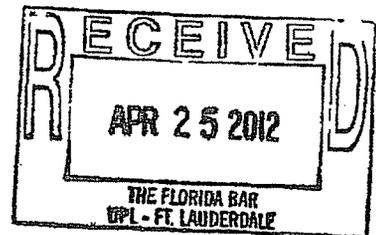
I have a receipt of the \$500.00 dollars. Three months later I went to see him at his office and he told me that he would call my immigration attorney and explained my situation to her. He never called my immigration attorney.

I began to have doubts and began to call and visit his office several times. At his office, all the secretaries and staff treat him and refer him as an attorney. He would reassure me that my problem would be resolved by March 2012.

Under penalty of perjury, I declare that I have read the foregoing document and that to the best of my knowledge and belief the facts stated in it are true.

Jose Villanueva  
 Signature

4-19-12  
 Date



### RETURN TO THE FLORIDA BAR

UPL Department 651 E. Jefferson Street Tallahassee, FL 32399-2300	UPL Department 5521 W. Spruce St., Suite C49 Tampa, FL 33607-5958	UPL Department 1200 Edgewater Drive Orlando, FL 32804-6314
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UPL Department Cypress Financial Ctr. Suite 835 5900 N. Andrews Ave. Ft. Lauderdale, FL 33309	UPL Department Rivergate Plaza Suite M-100 444 Brickell Ave. Miami, FL 33131
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RECEIPT

DATE 8/25/11 No. 674552

RECEIVED FROM José Villanueva \$500<sup>00</sup>

Five Hundred & 00/100 DOLLARS

FOR RENT MRS. JESSE

FOR \_\_\_\_\_

ACCOUNT		
PAYMENT	<u>500</u>	<u>00</u>
BAL. DUE	<u>0</u>	

CASH FROM \_\_\_\_\_ TO \_\_\_\_\_

CHECK BY AKS to BFF

MONEY ORDER

adams 1182

**JOHN A. GARCIA, P.A.**  
Legal Consultant

The Barristers Building  
1615 Forum Place, Suite 4-B  
West Palm Beach, Florida 33401

Telephone: (561) 478-1131  
Cell (561) 602-7334  
email jgarcia692@aol.com

RECEIVED

AUG 07 11

THE FLORIDA BAR  
FT. LAUDERDALE OFFICE

July 31, 2012

Mr. Michael David Soifer  
The Florida Bar  
Ft. Lauderdale Branch Office  
Lake Shore Plaza II  
1300 Concord Terrace, Suite 130  
Sunrise, Florida 33323

Re: Florida Bar # 2012-51,576(15D)

Dear Mr. Soiefer:

Please consider this my good faith response to Jose W. Villanueva's complaint.

The first issue I would like to address is the allegation that Mr. Villanueva states that I am practicing law without a licence. Mr. Villanueva was brought to my office by an old client of mine, who clearly knew that I was no longer a member of the Florida Bar. This man's name is Miguel Baron. Mr. Baron brought him to my office in the hope that I could contact the IRS and try and help him with his tax liens. The whole reason for Mr. Villanueva coming to my office was because he didn't speak English and was looking for someone to try and get thru the red tape of the IRS. All Mr. Villanueva requested of me was to read thru his paperwork and try and contact the IRS on his behalf for an explanation as to why his tax returns were being liened, and they explain to Mr. Villanueva what the IRS said. I was not asked to do anything that involved legal issues, nor did I give him any legal advice. There was nothing about the help that was going to be provided to Mr. Villanueva that was in any way legal. I was basically doing something for Mr. Villanueva, that anyone in his family or a friend could have done if they could read the paperwork. It should be noted that I do not speak Spanish and therefore I have no idea what Mr. Baron translated to Mr. Villanueva, or even if Mr. Baron told me correctly what Mr. Villanueva said in Spanish.

The second issue that I would like to address is that I, on numerous occasions, did contact his immigration attorney. In fact, they called me a few times when Mr. Villanueva had a hearing coming up and just asked how I was progressing with the IRS issue.

The third issue that I would like to address concerns the allegation that all the secretaries and staff treat me as an attorney. I have been in this location since 1999. I no longer employ anyone in this office and I am not on the payroll of any attorney in this office. When I was released from

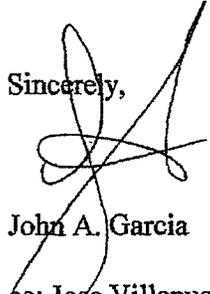
The Florida Bar  
Exhibit E

prison, my probation office came to this office on numerous occasions to make sure that I was not either representing myself as an attorney nor was anyone referring to me as an attorney. There isn't a person in this office who is stupid enough to say to anyone that I am a lawyer. I would also like to point out that I do not have my name anywhere on the door, the marquee downstairs nor do I keep any business cards out front. In regards to my phone number, my old number (561) 478-1131 was kept by Mr. Mitchell when I went to prison, but somehow that number has been let go. It has been around for the last three years, but it seems to have be given up by Mr. Mitchell, but I was not aware that the number no longer worked until this complaint. I use my cell phone for all matters.

The fourth issue that I need to address is that I refer to myself as an attorney. I of all people realize that I am currently not a member of the Florida Bar and I have every intention of requesting re-admission when my 5 years are up. So I clearly know that I have to live at the foot of the cross until that time. I learned a valuable lesson in 2007, and that is that you cannot trust anybody, so with that in mind there is no way that I would be presenting myself as a lawyer because you never know who is listing. Now in this particular case, I cannot tell you what Mr. Baron told Mr. Villanueva what I was going to do for him, but I can assure you that it was not going to involve any legal representation.

If I can be of further assistance please feel free to contact me.

Sincerely,



John A. Garcia

cc: Jose Villanueva  
4500 Flows Way  
Lake Worth, FL 33461

Pursuant to Rule 3-7.1(f), Rules of Discipline, you must execute the appropriate disclosure paragraph below and return the form to this office by July 11, 2012. The rule provides that the nature of the charges be stated in the notice to your firm; however, we suggest that you attach a copy of the complaint.

**CERTIFICATE OF DISCLOSURE**

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a true copy of the foregoing disclosure was furnished to \_\_\_\_\_, a member of my present law firm of \_\_\_\_\_, and/or to \_\_\_\_\_, a member of the law firm of \_\_\_\_\_, with which I was associated at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2012-51,576 (15D).

\_\_\_\_\_  
John Anthony Garcia

**CERTIFICATE OF DISCLOSURE**  
(Corporate/Government Employment)

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a true copy of the foregoing disclosure was furnished to \_\_\_\_\_, my supervisor at \_\_\_\_\_ (name of agency), with which I was associated at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2012-51,576(15D).

\_\_\_\_\_  
John Anthony Garcia

**CERTIFICATE OF NON-LAW FIRM AFFILIATION**  
(Sole Practitioner)

I HEREBY CERTIFY to The Florida Bar on this 31<sup>st</sup> day of July, 2012, that I am not presently affiliated with a law firm and was not affiliated with a law firm at the time of the act(s) giving rise to the complaint in The Florida Bar File No. 2012-51,576(15D).

\_\_\_\_\_  
John Anthony Garcia