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RESPONDENT'S MOTION TO SUBPOENA A NOTARIO

NOT DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]

In the Matter of:

XXXXX,

Respondent

IN REMOVAL PROCEEDINGS

FILE NO.

Immigration Judge [REDACTED]

Next Hearing: XXXX

Respondent's Motion for Subpoena

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]**

In the Matter of:

XXXXXX,

Respondent

IN REMOVAL PROCEEDINGS

FILE NO.

MOTION FOR SUBPOENA

Respondent X (“Respondent”), through counsel, respectfully requests that the Court to grant this Motion for Subpoena and issue a subpoena to compel the appearance of a party of interest, Mr. X (AKA “Don X”), at the next master calendar hearing on X. Respondent asserts upon information and belief that (1) the testimony of this individuals is essential to accurately establish the facts of his case, and (2) that he has made diligent efforts, without success, to secure Respondent’s file. *See* 8 CFR § 1003.35.

The Subpoena also seeks the production of the Respondent’s immigration file and documents from Mr. X. Only upon obtaining this file will Respondent and undersigned counsel be able to accurately establish the facts of his case, which will in turn allow us to accurately establish the immigration benefits for which Respondent qualifies. Respondent has submitted a Freedom of Information Act request and to date has not received disclosure. More importantly, Respondent and undersigned counsel do not know if they will receive the disclosures in time for the next master calendar hearing on [REDACTED] 2012.

Mr. X was the individual who prepared the Respondent’s applications for, *inter alia*,

temporary protected status (TPS) and employment authorization documents. Mr. X is neither an attorney nor an BIA-accredited representative. Exh. A, Copies of I-765 and I-821 from 2010 noting X as the preparer. Mr. X was or is affiliated with the now disbarred XXXXXX . Exh. B, Decision of the Board of Immigration Appeals Immediately Suspending XXXXXX. Mr. X has an office located at XXXXX [REDACTED] Maryland, for his business entitled X Enterprises, Inc. and he holds himself out as a tax specialist. Exh. C, Copy of Mr. X's business card. Based on a survey over the [REDACTED] listserv, the following attorneys or non-profit organizations claim to have current or former clients whose cases were negatively affected by Mr. X and his immigration assistance: Father XXXX XXXX, XXXXX, Inc., and XXXXX XXXXXX XXXXX, and XXXX XXXXXX at [FIRM NAME]. These individuals who were negatively affected by the assistance of Mr. X paid him a fee in exchange for his assistance. In Respondent's case, he paid Mr. X \$2,000 dollars for his assistance completing temporary protected status (TPS) and employment authorization documents applications as well as drafting a Motion to Re-Open or Reconsider with the USCIS Vermont Service Center. Exh. D, Copy of Motion to Re-Open or Reconsider prepared by Mr. X.

Respondent and his undersigned counsel have made diligent but unsuccessful efforts to obtain his file from Mr. X. On [REDACTED] 2011 undersigned counsel called Mr. X and requested that he produce Respondent's file. Mr. X noted that while he assisted Respondent in the filing of various applications and Respondent provided Mr. X all his documents, Mr. X did not have the file and that Respondent had to ask XXXXXX for the file. Mr. X stated he would attempt to contact XXXXXX and get the file from him. Thereafter, Respondent went to see Mr. X at his office, but was told by the personnel that Mr. X was not present. Respondent also called Mr. X multiple times, but was always told by the office personnel that he was not present. In early

██████████, undersigned counsel called Mr. X again, but was also informed he was not present.

Most recently, undersigned counsel called Mr. X on ██████████ 2011 and was again told Mr.

X was not in the office and to try him back the following day.

Pursuant to 8 C.F.R. §§ 1003.35, 1287.4(a)(2)(iii) and for the reasons stated above, the Respondent respectfully requests that subpoenas be issued to compel Mr. X to appear at the Respondent's next master calendar hearing on X and to produce Respondent's immigration file. Undersigned counsel is able and willing to assist in the service of the subpoena on Mr. X should this Honorable Court require assistance.

WHEREFORE, IT IS MOVED, that this court accept and grant this Motion for Subpoena and issue a subpoena to compel the appearance of Mr. X.

Respectfully submitted this _____ day of ██████████ 2011,

, Esq.

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]**

In the Matter of:

XXXXX,

Respondent

IN REMOVAL PROCEEDINGS

FILE NO.

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's Motion for Subpoena, it is HEREBY ORDERED that the motion be **GRANTED** **DENIED** because:

- DHS does not oppose the motion.
- The respondent does not oppose the motion.
- A response to the motion has not been filed with the court.
- Good cause has been established for the motion.
- The court agrees with the reasons stated in the opposition to the motion.
- The motion is untimely per _____.
- Other:

Deadlines:

- The application(s) for relief must be filed by _____.
- The respondent must comply with DHS biometrics instructions by _____.

Date

Immigration Judge

Certificate of Service

This document was served by: Mail Personal Service
To: Alien Alien c/o Custodial Officer Alien's Atty/Rep DHS

Date: _____

By: Court Staff _____

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**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]**

In the Matter of:

XXXXXX,

Respondent

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FILE NO.

PROOF OF SERVICE

On the _____ day of [REDACTED] 2011, I, [attorney for respondent], served a copy of the Respondent's Motion to Issue Subpoenas and any attached pages on the Office of Chief Counsel, [REDACTED], by hand delivery.

_____, Esq.
Attorney for Respondent

Date

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
[CITY, STATE]**

In the Matter of:

XXXXXX,

Respondent

IN REMOVAL PROCEEDINGS

FILE NO.

MOTION FOR SUBPOENA EXHIBIT LIST

EX.	NAME	PAGE
A.	Copies of signature pages of I-765 and I-821 from 2010 noting X as the preparer	5-6
B.	Decision of the Board of Immigration Appeals Immediately Suspending XXXXXX	7
C.	Copy of Mr. X's business card	8
D.	Copy of Motion to Re-Open or Reconsider prepared by Mr. X	9-11