



1 (S.D.N.Y. Nov. 30, 2009). As a result of that disbarment order,  
2 this Court also disbarred Saghir, pursuant to its reciprocal  
3 discipline rule. See 2d Cir. Local Rule 46.2(c)(2); see also  
4 Order filed Jan. 4, 2010. However, this Court's disbarment order  
5 stated that it would not take effect for 28 days, giving Saghir an  
6 opportunity to request revocation or modification of the order.  
7 See 2d Cir. Local Rule 46.2(c)(2)-(3). Saghir did not respond to  
8 the disbarment order, and the effective date for Saghir's removal  
9 from this Court's bar has now passed. Thus, Saghir is now  
10 prohibited from serving as counsel or performing legal services in  
11 cases before this Court, and must arrange for substitution of  
12 counsel in all of her cases now pending in this Court.

13 Saghir's disbarment renders moot this panel's June 2009  
14 referral of Saghir to this Court's Committee on Admissions and  
15 Grievances. Thus, we terminate the referral, without prejudice to  
16 reinstatement in the event Saghir applies for readmission to this  
17 Court's bar or successfully challenges her reciprocal disbarment.

18 One last issue requires resolution. In September 2009,  
19 Saghir sent a letter to the Clerk of this Court, stating the  
20 following: "I write to hereby withdraw and resign as a member of  
21 the Bar of this Court effective immediately." However, Saghir did  
22 not cite, and we are not aware of, any authority permitting an  
23 attorney to unilaterally withdraw or resign from this Court's bar  
24 while subject to disciplinary proceedings in this Court. To the  
25 contrary, an attorney who is the subject of a disciplinary

1 proceeding in this Court may not resign from the Court's bar  
2 without first obtaining leave of the Court. See, e.g., *In re*  
3 *Clinton*, 534 U.S. 1016 (2001) (striking name from Supreme Court's  
4 roll of attorneys pursuant to attorney's request for leave to  
5 resign); *In re Resignation of Nixon*, 422 U.S. 1038 (1975) (same);  
6 *In re Conn*, 16 Vet. App. 364, 365 (2002) ("Although the Court has  
7 the inherent power to accept a resignation during the pendency of  
8 a disciplinary proceeding, whether the Court should accept such a  
9 resignation is a matter within the Court's discretion.").<sup>1</sup>

10 We agree with the Southern District, which received a similar  
11 resignation letter from Saghir, that, "[w]hile an attorney may  
12 tender his or her resignation, even while under investigation, the  
13 effectiveness of such resignation at all times depends upon Court  
14 acceptance." *In re Saghir*, No. M-2-238, 2010 WL 308722 (S.D.N.Y.  
15 Jan. 22, 2010). Just as an attorney who practices in this Court  
16 may not evade this Court's disciplinary authority by failing to  
17 first become a member of this Court's bar, see *In re Koenig*, \_\_  
18 F.3d \_\_, 2010 WL 118117 (2d Cir. 2010), an attorney likewise may  
19 not evade that disciplinary authority through strategic withdrawal

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<sup>1</sup> New York state courts, for example, may allow an attorney to resign from the bar while disciplinary proceedings are pending, but only if the attorney admits culpability. See 22 N.Y.C.R.R. §§ 603.11, 691.9, 806.8, 1022.26(a); *In re Bailey*, 230 A.D.2d 471, 472 (1st Dep't 1997) (allowing resignation after admission of culpability); *In re Nixon*, 53 A.D.2d 178, 180-81 (1st Dep't 1976) (denying resignation because the attorney did not admit culpability).

1 after disciplinary proceedings have commenced. We construe  
2 Saghir's September 2009 letter as a request for leave to resign  
3 from this Court's bar, and deny that request. Saghir has not  
4 demonstrated, and the papers before this Court do not suggest,  
5 that resignation at this juncture would be in the interests of  
6 justice.<sup>2</sup>

7 The appended portions of this panel's prior orders in this  
8 matter are deemed part of the present order for the following  
9 disclosure purposes. Saghir must disclose this order to all  
10 clients in cases currently pending in this Court and to all courts  
11 and bars of which she is currently a member, and as required by  
12 any bar or court rule or order. Furthermore, the Clerk of Court  
13 is directed to release this order to the public by posting it on  
14 this Court's web site and providing copies to members of the  
15 public in the same manner as all other published decisions of this  
16 Court, and to serve a copy on Saghir, this Court's Committee on  
17 Admissions and Grievances, the attorney disciplinary committees

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<sup>2</sup> This Court's current Local Rules, effective as of January 1, 2010, expressly address resignations proffered by an attorney, like Saghir, who had been referred to the Committee on Admissions and Grievances for disciplinary proceedings: "[o]nce a matter has been referred to the Committee by the Grievance Panel, the Committee in the first instance determines the effect of the subject attorney's . . . proffered resignation on Committee proceedings" and "[t]hat determination is then incorporated into the Committee's report to the Grievance Panel." 2d Cir. Local Rule 46.2(b)(3)(I). In the present case, there is no need for a Committee recommendation concerning the effect of Saghir's proffered resignation, since the circumstances clearly render the referral moot and that proffer a nullity.

1 for the New York State Appellate Division, First and Second  
2 Departments, and all other courts and jurisdictions to which this  
3 Court distributes disciplinary decisions in the ordinary course.

4 **APPENDIX 1**

5 **Excerpt from March 2009 order**

6  
7 For the reasons that follow, Uzmah Saghir is ordered to show  
8 cause why disciplinary or other corrective measures should not be  
9 imposed on her, pursuant to Federal Rule of Appellate Procedure  
10 46(b) and (c) and Second Circuit Local Rule 46.

11  
12 Saghir was referred to this panel as a result of the  
13 proceedings in *United States v. Tyler (Lugo)*, 05-5155-cr (L), 05-  
14 6106-cr (CON), in which she represented Richard Lugo. In that  
15 case, after Lugo's prior attorney filed a brief, Saghir moved to  
16 be substituted as Lugo's attorney and to file a supplemental  
17 brief. See 05-5155-cr, motions filed Jan. 12 and 17, 2007.  
18 Although the motion was granted, *id.*, order filed Jan. 25, 2007,  
19 Saghir failed to file the supplemental brief. After a message was  
20 left for her by a case manager, Saghir filed a new motion,  
21 requesting that the Court disregard prior counsel's brief and  
22 allow the filing of a new brief. *Id.*, entry on May 15, 2007;  
23 motion filed June 25, 2007. Although Saghir's new motion was  
24 granted, *id.*, order filed Aug. 16, 2007, she again failed to file  
25 a brief, and failed to respond to the Court's attempts to contact  
26 her prior to argument of the appeal, *id.*, entries on Sept. 12 and  
27 13, 2007. At oral argument, Saghir stated that her failure to  
28 submit a new brief was "due to [her] own incompetence." The Court  
29 granted Saghir leave to file a new brief, but warned that she  
30 faced potential sanctions, including referral to this panel.  
31 Saghir subsequently complied by timely filing a supplemental  
32 brief, and this Court affirmed Lugo's conviction. See 05-5155-cr,  
33 brief filed Oct. 2, 2007; 05-6106-cr, judgment filed Oct. 24,  
34 2007. However, approximately one month after the affirmance, the  
35 Court received a letter from Lugo, in which he stated that neither  
36 he nor his family had been able to contact Saghir, he had not  
37 received a copy of the supplemental brief, and he was unaware of  
38 the status of the case. See No. 05-6106-cr, letter filed Nov. 27,  
39 2007. The docket states that Lugo's letter was forwarded to  
40 Saghir. See *id.*, dkt. Thereafter, Lugo's petition for writ of  
41 certiorari was denied by the Supreme Court. See *Lugo v. United*  
42 *States*, No. 07-10395 (May 12, 2008). The Supreme Court's docket  
43 indicates that Lugo proceeded pro se with that petition.  
44

1           Additionally, a review of Saghir's cases in this Court  
2 suggests a pattern of late and defective filings. [footnote  
3 omitted] First, at least four of Saghir's cases have been  
4 dismissed due to her failure to file briefs. See *United States v.*  
5 *Allen*, 02-1738-cr, *United States v. Chohan*, 03-1188-cr, *United*  
6 *States v. Hamdi*, 03-1307-cr (later reinstated and new counsel  
7 appointed), *United States v. Gomez*, No. 07-5163-cr. In one of the  
8 four defaulted cases, the dismissal order was entered after this  
9 Court had denied Saghir's motion to be relieved, see *Chohan*, 03-  
10 1188-cr, while, in another, the dismissal order was entered just  
11 before she filed a motion to be relieved, see *Allen*, 02-1738-cr.  
12 This Court's records do not suggest that Saghir made any attempt  
13 to reinstate either appeal.  
14

15           In *United States v. Khan*, 04-6078-cr, Saghir had difficulty  
16 filing a brief on time, as evidenced by her numerous requests for  
17 extensions of time. See 04-6078-cr, extension motions filed Feb.  
18 22, June 14, Sept. 23, and Dec. 2, 2005. All but the first  
19 extension request were filed following messages from the case  
20 manager advising Saghir that her brief was overdue and that an  
21 extension motion should be filed. *Id.*, entries on May 25, July  
22 26, Aug. 19, and Nov. 22, 2005. After an applications judge  
23 granted Saghir's fourth extension motion, and stated that no  
24 further extensions would be granted absent extraordinary  
25 circumstances, *id.*, order filed Dec. 14, 2005, Saghir submitted a  
26 brief by the deadline, but failed to submit an appendix until the  
27 Court left an additional message for her and then sent a notice to  
28 correct, *id.*, brief received Dec. 19, 2005, entry regarding  
29 message on Mar. 6, 2006, notice to correct sent Mar. 24, 2006,  
30 brief and appendix filed Apr. 20, 2006. Further, her client filed  
31 a *pro se* letter indicating that Saghir had requested extensions of  
32 time without his consent or knowledge for fifteen months, and  
33 requesting Saghir's removal as his counsel and leave to prepare  
34 his appeal *pro se*. *Id.*, letter filed Mar. 20, 2006. Although it  
35 appears that no action was taken on the letter, the case was  
36 remanded for resentencing, upon the Government's motion. *Id.*,  
37 order filed May 22, 2006. On remand, the district court granted  
38 the client's *pro se* motion for appointment of new counsel, based  
39 on the assertion that Saghir had rebuffed numerous attempts at  
40 communication. See E.D.N.Y. Dkt. No. 02-cr-74, motion to appoint  
41 counsel filed Oct. 17, 2006, order granting motion filed Jan. 7,  
42 2007.  
43

44           Similarly, in *United States v. Quadar*, 03-1386-cr, Saghir was  
45 granted at least eight extensions, but failed to file a timely  
46 brief after her motion to file an oversized brief was denied and,  
47 as a result, the appeal was dismissed for default. See 03-1386-  
48 cr, orders granting extensions filed Mar. 5, Apr. 19, and Nov. 9,

1 2004, and Jan. 12, Jan. 26, Apr. 8, May 12, and Oct. 3, 2005;  
2 dismissal order filed Mar. 22, 2006. Saghir later moved for, and  
3 obtained, reinstatement and filed a brief; this Court affirmed the  
4 appellant's conviction. *Id.*, motion to reinstate filed Apr. 11,  
5 2006, order granting motion filed Apr. 21, 2006, brief filed Apr.  
6 24, 2006, mandate issued Apr. 13, 2007.

7  
8 Additionally, in *United States v. Ghauri*, 05-1112-cr, more  
9 than three months after Saghir's briefing deadline had passed, the  
10 case manager left Saghir at least one message informing her of the  
11 missed deadline. See 05-1112-cr, entry on Sept. 20, 2005. It  
12 does not appear that Saghir ever responded. After the Government  
13 moved to dismiss based on the appeal waiver provision of the plea  
14 agreement, Saghir was directed to file a response pursuant to  
15 *United States v. Gomez-Perez*, 215 F.3d 315 (2d Cir. 2000), but she  
16 failed to do so within the mandated thirty-day period. After  
17 being contacted by the Court regarding the expiration of the  
18 deadline, Saghir filed a response and a motion for leave to file  
19 out of time, which this Court granted. *Id.*, entry on Nov. 8,  
20 2005, motion filed Nov. 10, 2005, order filed Nov. 17, 2005. Upon  
21 submission, this Court granted the Government's motion to dismiss.  
22 *Id.*, order filed Jan. 11, 2006.

23  
24 In *United States v. Mostafa*, 07-1474-cr, while Saghir  
25 submitted a brief and appendix on time, she only submitted one  
26 copy of each. See 07-1474-cr, entries on June 25, 2007. She  
27 cured the defect, after the briefing deadline, upon being informed  
28 of the need to submit an additional nine copies of each. *Id.*,  
29 entries on June 29 and July 3, 2007.

30  
31 In *United States v. Gomez*, No. 07-5163-cr, after being  
32 substituted as counsel, Saghir failed to respond to an order to  
33 show cause why the appeal should not be dismissed based on her  
34 failure to file a brief. See 07-5163-cr, substitution order filed  
35 May 15, 2008, order to show cause filed Aug. 7, 2008. When no  
36 response was received, the appeal was dismissed for default. *Id.*,  
37 order filed Sept. 25, 2008. Reinstatement has not been requested.

38  
39 In *United States v. Martinez*, 08-1151-cr, Saghir failed to  
40 file her brief by the May 2008 deadline, see 08-1151-cr,  
41 scheduling order filed Mar. 13, 2008, and, in November 2008, this  
42 Court ordered Saghir to show cause why the appeal should not be  
43 dismissed based on her default, *id.*, order filed Nov. 18, 2008.  
44 Although Saghir's response to the November 2008 order was due by  
45 December 2, 2008, no response has been received as of the date of  
46 the present order.  
47

1 Finally, Saghir was charged with misconduct in her  
2 representation of Sandro Rodas in his criminal case in the United  
3 States District Court for the Eastern District of New York and in  
4 his appeal from the resulting conviction. See *Rodas v. Saghir*,  
5 08-cv-738 (E.D.N.Y.), complaint filed Feb. 15, 2008 (alleging  
6 misconduct in prior criminal proceedings and noting the filing of  
7 a charge with state disciplinary committee). As a result, Saghir  
8 was admonished by the Disciplinary Committee for the New York  
9 State Appellate Division, First Department, for her conduct in  
10 both the district court and this Court. See *id.*, attached  
11 disciplinary committee letter dated Apr. 24, 2007; see also *United*  
12 *States v. Rodas*, 05-5643-cr, entries on Nov. 29, 2005, May 10,  
13 2006 (noting correction to reflect Saghir as appellant's counsel,  
14 issuance of new scheduling order, and default dismissal).  
15 Although Saghir was admitted to practice in New York State by the  
16 New York State Appellate Division, Second Department, we currently  
17 are unaware of any disciplinary history Saghir may have in that  
18 department.

19  
20 Upon due consideration of the matters described above, it is  
21 ORDERED that Uzmah Saghir show cause, in a detailed declaration,  
22 why disciplinary or other corrective measures, including  
23 suspension from the bar of this Court, should not be imposed on  
24 her, pursuant to Federal Rule of Appellate Procedure 46(b) and (c)  
25 and Second Circuit Local Rule 46. The declaration must be made  
26 under penalty of perjury and filed within twenty-eight days of the  
27 filing date of this order.

28  
29 [Additional text omitted]

30  
31 FOR THE COURT:  
32 Catherine O'Hagan Wolfe, Clerk

33  
34 By: \_\_\_\_\_/s/\_\_\_\_\_  
35 Michael Zachary  
36 Supervisory Staff Attorney  
37 Counsel to Grievance Panel  
38

1 **APPENDIX 2**

2 **Excerpt from June 2009 order**

3  
4 **I. Referral of Uzmah Saghir to This Court's Committee on**  
5 **Admissions and Grievances**  
6

7 For the reasons that follow, Uzmah Saghir is referred to this  
8 Court's Committee on Admissions and Grievances for investigation  
9 of the matters described in our prior order, filed March 2, 2009,  
10 and preparation of a report on whether she should be subject to  
11 disciplinary or other corrective measures. See Second Circuit  
12 Local Rule 46(h). We express no opinion here as to an appropriate  
13 disposition. The Committee may, of course, in the first instance,  
14 determine the appropriate scope of its investigation.  
15

16 In our March 2009 order, we directed Saghir to show cause why  
17 she should not be subject to disciplinary or other corrective  
18 measures based on the conduct described in that order. Her  
19 response was to be made under penalty of perjury and to address a  
20 number of specified matters. By letter dated May 6, 2009, Saghir  
21 responded by invoking the Fifth Amendment privilege against self-  
22 incrimination, pursuant to *Spevack v. Klein*, 385 U.S. 511, 514-16  
23 (1967). Saghir also stated that, if the Court found the Fifth  
24 Amendment privilege inapplicable, she would then "fully and  
25 completely" comply with the March 2009 order.  
26

27 We cannot, at this preliminary stage, find the asserted  
28 privilege inapplicable. We therefore must make our determination  
29 without Saghir's input. The conduct described in the March 2009  
30 order strongly suggests that Saghir is unable to abide by the  
31 rules and orders of this Court and, as a result, that her clients  
32 and the public are at serious risk of prejudice and that the Court  
33 will continue to be unduly burdened. We do not know, and this  
34 Court's docket does not suggest, whether Saghir has any valid  
35 excuse or explanation for that conduct, or whether any mitigating  
36 factors exist. Furthermore, although the March 2009 order clearly  
37 put Saghir on notice of various defaults in several of her cases,  
38 there is no indication that Saghir has attempted to cure any of  
39 them. See *United States v. Martinez*, 08-1151-cr; *United States v.*  
40 *Gomez*, No. 07-5163-cr; *United States v. Chohan*, 03-1188-cr; *United*  
41 *States v. Allen*, 02-1738-cr.  
42

43 Upon due consideration of the matters described above, it is  
44 ORDERED that Uzmah Saghir is hereby referred to this Court's  
45 Committee on Admissions and Grievances for investigation and  
46 preparation of a report consistent with Federal Rule of Appellate  
47 Procedure 46, this Court's Local Rule 46(h), and the Committee's  
48 Rules. We ask the Committee to determine in the first instance

1 the appropriate means of proceeding in light of Saghir's assertion  
2 of the privilege against self-incrimination. Furthermore, the  
3 Committee is authorized to share information, and/or hold joint  
4 proceedings, with other disciplinary committees, as long as  
5 confidentiality is maintained.  
6  
7  
8  
9

10 **II. Interim Suspension from the Bar of This Court**  
11

12 It is further ORDERED that Saghir is hereby SUSPENDED from  
13 the bar of this Court pending completion of the Committee's  
14 proceedings, in light of the danger she poses to the interests of  
15 her clients and the public. As noted above, Saghir not only has  
16 demonstrated an inability to conform to the rules and orders of  
17 this Court, but also has failed to take any steps to ameliorate  
18 the prejudice to her clients and the public after her defaults  
19 were brought to her attention.  
20

21 [Additional text omitted]  
22

23 FOR THE COURT:  
24 Catherine O'Hagan Wolfe, Clerk  
25

26 By: \_\_\_\_\_/s/  
27 Michael Zachary  
28 Supervisory Staff Attorney  
29 Counsel to Grievance Panel