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Naturalization & Denaturalization

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I. INTRODUCTION

This outline discusses the process of naturalization, including the good moral character requirement, and denaturalization. The first section provides an outline of the basic requirements for naturalization, acquired under section 316 of the Immigration and Nationality Act ("INA"). This outline, therefore, does not address naturalization under any other section of the INA (e.g., naturalization for members of the military, etc.). The first section also provides guidance on the meaning of the requirement of "good moral character" for naturalization purposes.

The second section of this outline discusses denaturalization proceedings under INA § 340(a) (judicial denaturalization proceedings). The judicial denaturalization proceedings described in the second section of this outline is applicable to any and all naturalized citizens.

II. NATURALIZATION REQUIREMENTS

A. Criteria for Naturalization:²

1. Applicant must be a Lawful Permanent Resident ("LPR").³ Under INA § 318, this requirement means that the person must have the status of "having been lawfully admitted accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed."⁴
2. Applicant must be at least eighteen (18) years old.⁵

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² See Ira J. Kurzban, *Kurzban's Immigration Law Source Book*, 913-19, (8th edition 2002).

³ Immigration and Nationality Act ("INA") § 318.

⁴ See *Matter of Longstaff*, 716 F.2d 1439 (5th Cir. 1983), *cert denied* 467 U.S. 1219 (1984) (naturalization denied on the basis that alien was excludable at the time he acquired LPR status and, therefore, was not lawfully admitted for LPR status).

⁵ INA § 334(b).

3. Applicant must be a resident of the United States continuously for five (5) years subsequent to admission in LPR status.⁶ Additionally, applicant must have resided for at least three (3) months within the state in which the application for naturalization was filed.⁷ Residence is defined as the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.⁸ Applicant must have resided continuously within the United States from the date the application is filed up to the time of admission from United States citizenship.⁹ Applicant must not be absent from the United States for a continuous period of more than one (1) year during the periods for which continuous residence is required.¹⁰ Absence for more than six (6) months but less than one (1) year establishes a presumption against compliance with the continuous residency requirements that can be rebutted.¹¹
4. Applicant must be physically present in the United States for at least one-half of the five (5) years subsequent to LPR status (or one half of three (3) years in the case of an applicant married to a United States citizen).¹²
5. Applicant must be a person of "good moral character" for the requisite five (5) years up to the time for admission (or in the case of an applicant married to a United States citizen three (3) years

⁶ INA § 316(a). The residence requirement is three (3) years where applicant for naturalization is married to a United States citizen, where the citizen spouse has been a citizen for the full three (3) years and the couple have been married and living in "marital union" for the full three (3) years. INA § 319(a),

⁷ INA § 316(a)(1).

⁸ INA § 101(a)(33).

⁹ INA § 316(a)(2) (continuous residence requirement).

¹⁰ 8 C.F.R. § 316.5(c)(1)(ii).

¹¹ INA § 316(b).

¹² INA § 316(a) (physical presence requirement).

under INA § 319(a)(1)).¹³

6. Applicant must be attached to the principles of the United States Constitution and well disposed to the good order and happiness of the United States.¹⁴ Attachment means that the applicant must demonstrate a certain amount of conviction that would lead to the active support of the Constitution; the statute, therefore, contemplates the denial of naturalization to applicants hostile to the basic form of government in the United States.¹⁵
7. Applicant must be willing to "(1) bear arms on behalf of the United States when required by the law, or (2) to perform noncombat service in the Armed Forces of the United States when required by law, or (3) to perform work of national importance under civilian direction when required by law."¹⁶
8. Applicant must demonstrate an elementary level reading, writing, and understanding of the English language.¹⁷ Additionally, Applicant must have knowledge and understanding of the fundamentals of history and government of the United States.¹⁸
9. An approved applicant for naturalization must take an oath of allegiance to the United States. The applicant, however, is allowed to take a modified oath of allegiance based on deeply held religious or moral beliefs that limit the applicant's willingness to bear arms.¹⁹

¹³ INA § 316(a)(3); see also 8 C.F.R. § 316.10.

¹⁴ INA § 316(a)(3); see also 8 C.F.R. § 316.11.

¹⁵ 8 C.F.R. 316.11(a). See also *Sittler v. United States*, 316 F.2d 312 (2d Cir. 1963), *cert denied* 376 U.S. 932; *Schneiderman v. United States*, 320 U.S. 118 (1943).

¹⁶ INA § 337(a)(5)(A) - (C).

¹⁷ INA § 312(a)(1); see also 8 C.F.R. § 312.1.

¹⁸ INA § 312(a); see also 8 C.F.R. § 312.2.

¹⁹ Interpretation 316.1(h)(3)(iv).

B. The "Good Moral Character" Requirement for Naturalization

1. The applicant for naturalization must be a person of good moral character for the requisite five (5) years²⁰ up to the time of admission to United States citizenship.²¹ The inquiry regarding good moral character, however, is not limited to the statutory prescribed good moral character period.²² According to the regulations, an applicant for naturalization may lack good moral character if the earlier conduct and acts do not reflect that there has been reform of character from the earlier period or if the earlier conduct and acts appear relevant to a determination of the applicant's present good moral character.²³ The good moral character requirement usually involves criminal grounds for disqualification. INS may request all former criminal records but should not do so if the arrest and/or conviction are outside the statutory period, will not result in issuing a Notice to Appear ("NTA"), and would not reflect on matters that occurred within the statutory period.²⁴
2. The applicant bears the burden of demonstrating good moral character during the statutory prescribed period, including the period between the preliminary examination and the administration of the oath of allegiance.²⁵
3. The Immigration and Nationality Act and pertinent regulations and interpretations do not provide a definition of what constitutes "good moral character." The INA and the regulations, however, provide a list of conduct, acts, characteristics, and/or attributes that

²⁰ The period for good moral character for an applicant who is the spouse of a United States Citizen ("USC") is three (3) years. INA § 319(a)(1). The period for good moral character or an applicant who is in the military is one (1) year. INA §1440(b).

²¹ INA § 316(a)(3).

²² INA § 316(e); 8 C.F.R. § 316.10(a)(2).

²³ INA § 316.10(a)(2).

²⁴ Memo, Pearson, Ex. Assoc. Comm. Field Operations, HQ 70/33-C (April 27, 2001), *reprinted in 78 Interpreter Releases* 863-65 (May 21, 2001).

²⁵ INA § 316(e); 8 C.F.R. § 316.10(a)(1).

preclude that an applicant for naturalization satisfies the good moral character requirement.²⁶ Furthermore, according to the regulation, claims of good moral character must be evaluated on a case-by-case basis taking into account the elements enumerated in 8 C.F.R. § 316.10 and the standards of the average citizen in the community of residence.²⁷ The INA, therefore, provides that “[t]he fact that [an applicant] is not within any of the [enumerated classes in Section 101(f)] shall not preclude a finding that for other reasons [an applicant] is or was not of good moral character.”²⁸

4. Finding of Lack of Good Moral Character

An applicant shall be found to lack good moral character if the applicant has been:

- a. Convicted of murder at anytime.²⁹
- b. Convicted of an aggravated felony as defined under INA § 101(a)(43) at any time.³⁰

An applicant shall be found to lack good moral character if during the statutory period the applicant is or has been:

- c. A habitual drunkard.³¹
- d. A member of one or more of the classes of persons described in INA § 212(a)(2)(A)-(D) (i.e., admission or conviction of crime involving moral turpitude, controlled substance violator, controlled substance traffickers, and prostitution or commercialized vice), and 212 §§ (6)(E)

²⁶ INA § 101(f); 8 C.F.R. § 316.10(b); INA Interpretation 316.1(e)-(g).

²⁷ 8 C.F.R. § 316.10(a)(2). Interpretation 316.1(e).

²⁸ INA § 101(f).

²⁹ 8 C.F.R. § 316.10(b)(1).

³⁰ INA § 101(f)(8). According to the regulation the conviction for an aggravated felony must be on or after November 29, 1990. 8 C.F.R. § 316.10(b)(2).

³¹ INA § 101(f)(1); 8 C.F.R. § 316.10(b)(2)(xii). **Practice Pointer:** under this section several convictions for driving under the influence during the statutory prescribed period may lead to a finding of lack of good moral character.

- (alien smugglers) and (9)(A) (aliens previously removed).³²
- e. One who earns his or her income principally from illegal gambling activities.³³
 - f. One who committed two (2) or more gambling offenses for which the applicant was convicted.³⁴
 - g. One who has given false testimony for the purpose of obtaining any benefit under the INA.³⁵
 - h. One who has been confined to a penal institution for an aggregate period of one hundred and eighty (180) days or more pursuant to a conviction, regardless of whether the offense, or offenses, for which such person has been confined was or were committed within or without such period.³⁶
 - i. One who committed two (2) or more crimes involving moral turpitude, other than a purely political offense, for which the applicant was convicted.³⁷
 - j. One who admits committing criminal acts which constitute crimes involving moral turpitude or violated any law relating to a controlled substance for which there was never a formal charge, indictment, arrest, or conviction, whether committed in the United States or any other country.³⁸
 - k. One who has practiced or is practicing polygamy.³⁹

³² INA § 101(f)(3); 8 C.F.R. § 316.10(b)(2)(iii), (iv), (vii), and (viii). **Practice Pointer:** Based on evolving case law, a conviction for driving under the influence, specially with aggravating factors, are deemed a crime involving moral turpitude. *Matter of Lopes-Meza*, Int. Dec. 3423 (BIA 1999).

³³ INA § 101(f)(4); 8 C.F.R. § 316.10(b)(2)(xi).

³⁴ INA § 101(f)(5); 8 C.F.R. § 316.10(b)(2)(x).

³⁵ INA § 101(f)(6); 8 C.F.R. § 316.10(b)(2)(vi). The testimony need not be material if such testimony is for the purpose of obtaining immigration benefits in both the immigrant visa or naturalization proceedings. 8 C.F.R. § 316.10(b)(2)(vi); *Kungys v. U.S.*, 485 U.S. 759, 797 (1988).

³⁶ INA § 101(f)(7); 8 C.F.R. § 316.10(b)(2)(v)

³⁷ 8 C.F.R. § 316.10(b)(2)(ii).

³⁸ 8 C.F.R. § 316.10(b)(2)(iv).

³⁹ 8 C.F.R. § 316.10(b)(2)(ix).

- l. One who willfully failed or refused to support dependents, unless applicant can establish extenuating circumstances.⁴⁰
- m. One who has had an extramarital affair which tended to destroy an existing marriage, unless applicant can establish extenuating circumstances.⁴¹
- n. One who committed unlawful acts that adversely reflect upon the applicant's moral character, or was convicted or imprisoned for such acts, although the acts do not fall within one of the enumerated categories, unless the applicant establishes extenuating circumstances.⁴²

Practice Pointer: The Immigration and Naturalization Service, although not specifically enumerated in the statute or pertinent regulations, routinely views failure to file income tax returns, failure to pay taxes owed, and failure to register for Selective Service as factors warranting denial based on lack of good moral character.

III. JUDICIAL DENATURALIZATION

Judicial denaturalization is a mechanism to revoke naturalization for fraudulent or illegal naturalization, and is also a mechanism for a criminal prosecution for illegally obtaining United States citizenship.⁴³

An affirmative decree entered by a district court in denaturalization proceedings revoking and setting aside the certificate of naturalization has the legal effect of declaring that the naturalized person was in fact never lawfully naturalized because a statutory condition precedent

⁴⁰ 8 C.F.R. § 316.10(b)(3)(i). **Practice Pointer:** Close attention must be given to question 22(g) on Part 10, Section D, INS Form N-400 which asks if the applicant has ever failed to support his or her dependents or to pay alimony. Applicants that list divorces and children, therefore, are required to provide evidence of payment of child support and/or alimony. Such evidence may include copies of divorce agreements, cancelled checks evidencing payment of child support/alimony, or affidavits indicating compliance with payment of child support/alimony from former spouse(s). See also, *Matter of Dobric*, 189 F. Supp. 638 (D. Minn. 1960); *Matter of Valad*, 465 F. Supp. 120 (E.D. Va. 1979).

⁴¹ 8 C.F.R. § 316.10(b)(3)(ii).

⁴² 8 C.F.R. § 316.10(b)(3)(iii).

⁴³ *Sourino v. U.S.*, 86 F.2d 309 (); see also, D.L. Hawley, *Denaturalization*, 00-08 Immigration Briefings (August 2002).

or the statutory naturalization prerequisites were not satisfied.⁴⁴

A. Denaturalization Procedure:

1. Statutory Grounds for Denaturalization:

The Immigration and Nationality Act ("INA") contains four statutory grounds for judicial revocation of naturalization or judicial denaturalization. The four statutory grounds are:

- a. The certificate of naturalization was illegally procured;⁴⁵
- b. The certificate of naturalization was procured by concealment of a material fact or by willful misrepresentation;⁴⁶
- c. the naturalized person was convicted under 18 U.S.C. § 1425 of knowingly procuring naturalization in violation of law; and (4) the naturalized person was not attached to the principles of the Constitution.⁴⁷

INA § 340(a), therefore, creates a civil judicial denaturalization procedure.⁴⁸ INA § 340(e), instead, allows the setting aside of admission to United States citizenship where there has been a criminal conviction for procuring naturalization by fraud. This outline addresses denaturalization under INA § 340(a) under illegal procurement or concealment of a material fact and willful misrepresentation.

INA Section 340(a), therefore, provides for the revocation of an order admitting an alien to United States citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were (1) illegally procured or (2) procured by concealment of a material fact or by willful misrepresentation.

⁴⁴ Interpretation 340.1(c).; see also, D.L. Hawley, *Denaturalization*, 00-08 Immigration Briefings (August 2002).

⁴⁵ INA § 340(a).

⁴⁶ INA § 340(a).

⁴⁷ INA §§ 340(e).

⁴⁸ INA § 340(a).

B. Government's Burden of Proof in Denaturalization Proceedings

1. The Supreme Court of the United States established that the "right to acquire American citizenship is a precious one and that once citizenship has been acquired, its loss can have severe and unsettling consequences."⁴⁹ The Court in *Fedorenko* added that for these reasons the Supreme Court of the United States has held that the government "carries a heavy burden of proof in a proceeding to divest a naturalized citizen of his [United States] citizenship."⁵⁰ The Court in *Fedorenko*, therefore, held that "[t]he evidence justifying revocation of citizenship must be *clear, unequivocal, and convincing* and *not leave the issue in doubt*."⁵¹

C. Illegal Procurement

1. The order admitting a person to citizenship may be revoked and his certificate of naturalization cancelled on the ground that the order and certificate were illegally procured.⁵² Citizenship is illegally procured if some statutory requirement that is a condition precedent to naturalization has not been met at the time the petition for naturalization is granted.⁵³ In a determination of whether a citizen failed to meet any statutory condition precedent to naturalization, and thus procured naturalization illegally, only those naturalization conditions precedent embodied in the law when naturalization was conferred may be considered.⁵⁴ If the

⁴⁹ *Fedorenko v. United States*, 449 U.S. 490, 505 (1980).

⁵⁰ *Id.*

⁵¹ *Id.* (citing *Schneiderman v. United States*, 320 U.S. 118, 122 (1943) (quoting *Maxwell Land-Grant Case*, 121 U.S. 325, 381 (1887))).

⁵² INA § 340(a).

⁵³ *Fedorenko*, 449 U.S. at 506 (in *Federenko* the Supreme Court held that immigrant visas obtained through material misrepresentations are not valid immigrant visas and thus render as illegally procured any subsequent naturalization derived from those visas); *Kungys v. United States*, 485 U.S. 759 (1988) (in *Kungys* the Supreme Court held that misrepresentation under INA § 101(f)(6) in procuring lawful permanent residence or naturalization may form the basis of denaturalization under illegal procurement based on lack of good moral character).

⁵⁴ Interpretation 340.1(c).

naturalization is held to be illegally procured, the certificate of naturalization must be set aside.⁵⁵

2. For the government to obtain a revocation of naturalization on the ground of illegal procurement, the government is not required to prove misrepresentations or the concealment of material facts on the part of the applicant for naturalization, and need not prove intentional disregard for the requirements of federal law.⁵⁶
3. Bases for Revocation of Naturalization Based on Illegal Procurement:
 - a. The naturalized person entered the United States on an invalid visa.⁵⁷
 - b. The naturalized person did not meet all of the statutory prerequisites to naturalization in that he or she was not a person of good moral character.⁵⁸

Practice Pointer:

A naturalized person may be found to lack good moral character on the basis of proof that the person has given false testimony for the purpose of obtaining naturalization, regardless of whether the false testimony was material, because INA § 101(f)(6) does not distinguish between material or immaterial misrepresentations.⁵⁹ To prove lack of good moral character based on false testimony, the government must prove that the applicant for naturalization had the subjective intent to deceive.⁶⁰ Testimony under INA § 101(f)(6) is limited to oral statements made under oath, and does not include other forms of misrepresentations, including use of

⁵⁵ *U.S. v. Hutyczyk*, 803 F.Supp. 1001 (D.N.J. 1992).

⁵⁶ *Kungys v. United States*, 485 U.S. 759 (1988); see also *U.S. v. Cloutier*, 87 F.Supp. 848 (E.D. Mich. 1949).

⁵⁷ *Fedorenko v. United States*, 449 U.S. 490, 505 (1980) (holding that ineligibility as matter of law for immigrant visa under Displaced Persons Act renders naturalization illegally procured); *U.S. v. Koreh*, 59 F.3d 431 (3d Cir. 1995).

⁵⁸ *Kungys v. United States*, 485 U.S. 759 (1988).

⁵⁹ *Id.*

⁶⁰ *Id.*

falsified documents or unsworn statements.⁶¹

Additionally, a naturalized person may be found to lack good moral character and have his or her certificate of naturalization revoked based on illegal procurement evidenced by conviction(s) that occur after naturalization has been conferred, if the acts that form the basis for the conviction occurred during the prescribed good moral character statutory period.⁶² For example, a naturalized person who is arrested and convicted after naturalization is conferred, if the conviction covers acts committed during the prescribed statutory good moral character period, may be denaturalized based on failure to satisfy the good moral character condition precedent to naturalization.⁶³

D. Willful Misrepresentations or Concealment of Material Facts

1. In *Kungys v. United States*, 485 U.S. 759, 767 (1988), the Supreme Court held that the test of whether concealment or misrepresentations are material in denaturalization proceedings was whether the government could prove by *clear, convincing, and unequivocal evidence* that: (1) the naturalized citizen must have misrepresented or concealed some fact; (2) the misrepresentation or concealment must have been willful; (3) the fact must have been material; and (4) the naturalized citizen must have procured citizenship as a result of the misrepresentation or concealment.
2. When the government seeks revocation of naturalization based on either concealment or misrepresentation, it must prove that the naturalized person had an actual intent to deceive the government.⁶⁴ A statement made by an applicant for naturalization in accordance with his or her information and belief at the time of

⁶¹ *Id.*

⁶² *U.S. v. Ekpin*, 214 F. Supp.2d 707 (S.D. Tex. 2002) (holding naturalization illegally procured based on applicant's lack of good moral character; lack of good moral character finding based on conviction subsequent to naturalization that established as a matter of law that applicant was statutorily ineligible for naturalization based on the commission of unlawful acts during the statutory period).

⁶³ *Id.*

⁶⁴ *Knauer v. United States*, 328 U.S. 654 (1946); *Maisenberg v. United States*, 356 U.S. 670 (1958); *United States v. Sheshtawy*, 714 F.2d 1038 (10th Cir. 1983); *United States v. Profaci*, 274 F.2d 289 (2nd Cir. 1960).

the statement is not willfully and knowingly false and is not a ground for revocation of naturalization, and what may appear objectively to be false may still fall short of establishing an intentional misrepresentation by clear and convincing evidence.⁶⁵ Moreover, in denaturalization proceedings, the court must not consider any statement made by the naturalized person unless that statement (1) is made for the purpose of obtaining immigration benefits; (2) was made under oath; and (3) was false.⁶⁶ An applicant for naturalization is not guilty of concealing a material fact simply by failing to volunteer such facts where there was no inquiry about them.⁶⁷

3. The test for materiality, which the government must meet with clear, unequivocal, and convincing evidence, is whether the concealment or misrepresentation in connection with an application for naturalization has a natural tendency to produce the conclusion that the applicant was qualified for citizenship.⁶⁸ A plurality of the Supreme Court in *Kungys* stated that under INA § 340(a), proof of materiality of the misrepresentation or concealment establishes a rebuttable presumption that the naturalized citizen who made the material misrepresentation or concealment was presumable disqualified for naturalization and the burden then shifts to the naturalized person to refute the presumption by proving through a preponderance of the evidence that the statutory requirement as to which the misrepresentation or concealment had a natural tendency to produce a favorable decision was in fact satisfied.⁶⁹

⁶⁵ *United States v. Tooma*, 187 F. Supp. 928 (E.D. Mich. 1960) (holding that naturalized citizen who was convicted for embezzlement, which included acts that preceded his naturalization, did not willfully conceal a material fact when he answered "no" to the questions whether he had committed a crime involving moral turpitude); *See also, Nowak v. United States*, 356 U.S. 660 (1958); *U.S. v. Jackson*, 55 F. Supp. 517 (E.D. Mich. 1944); *Knauer v. United States*, 328 U.S. 654 (1946).

⁶⁶ *United States v. Lindert*, 907 F. Supp. 1114 (N.D. Ohio 1995).

⁶⁷ *Cufari v. United States*, 217 F.2d 404 (1st Cir. 1954); *United States v. Osidach*, 513 F. Supp 51 (E.D. Pa. 1981); *United States v. Minerich*, 250 F.2d 721 (7th Cir. 1957).

⁶⁸ *Kungys v. United States*, 485 U.S. 759 (1988).

⁶⁹ *Id.*

4. An applicant for naturalization cannot be denaturalized where the question on the INS form(s) that formed the basis for seeking denaturalization were answered literally true or the question is vague and confusing.⁷⁰
5. In denaturalization proceedings based on willful misrepresentations or concealment of a material fact, the materiality requirement applies to both misrepresentations or concealments.⁷¹
6. Material Facts, which when Concealed or Misrepresented, can serve as Grounds for Revocation of Naturalization:
 - a. Membership in the Communist Party.⁷²
 - b. The length and location of the naturalized citizen's residence in the United States.⁷³
 - c. The naturalized citizen's occupation.⁷⁴
 - d. The naturalized citizen's date of birth.⁷⁵
 - e. The basis of the naturalized citizen's prior loss of United

⁷⁰ *United States v. Rendon-Marquez*, 79 F. Supp.2d 1361 (N.D. Ga. 1999) (holding that question 3 on INS Form N-445A could not serve as a basis for a conviction under 18 U.S.C. § 1001 because that question asked two separate and distinct questions while providing space for only one "yes" or "no" answer, and that defendant's answer that is literally true to any part of questions 3 serves as a defense based on a charge that his answer were not truthful); *Nowak v. United States*, 356 U.S. 660 (1958).

⁷¹ *U.S. v. Sheshtawy*, 714 F.2d 516 (3d Cir. 1986).

⁷² *U.S. v. Charnowola*, 109 F.Supp 810 (E.D. Mich 1953), *judgment aff'd*, 211 F.2d 118 (6th Cir. 1954); *U.S. v. Marasilis*, 142 F.Supp. 697 (W.D. Mich. 1956).

⁷³ *U.S. v. Goglia*, 21 F.Supp. 894 (S.D.N.Y 1938).

⁷⁴ *U.S. v. Costello*, 275 F.2d 355 (2d Cir. 1960), *cert granted*, 362 U.S. 973 (1960), *judgment aff'd*, 365 U.S. 265 (1961) (holding that statement that occupation was in real estate when in fact the applicant was a bootlegger).

⁷⁵ *Application of Lewis*, 46 F.Supp. 527 (D. Md. 1942). A misrepresentations in a naturalization application as to applicant's date and place of birth are not material where the misrepresented information are not relevant to the applicant's qualifications for citizenship where the government fails to satisfy its burden of proving that disclosure of the true and correct information would have resulted in the denial of the application for naturalization or an investigation that would have resulted in a denial of the application for naturalization. *Kungys v. United States*, 485 U.S. 759 (1988).

- States citizenship.⁷⁶
- f. The naturalized citizen's name.⁷⁷
 - g. The naturalized citizen's marital status.⁷⁸
 - h. The naturalized citizen failed to disclose commission of unlawful acts.⁷⁹
 - i. The naturalized citizen's refusal to testify before a congressional committee.⁸⁰
 - j. The naturalized citizen's ineligibility for adjustment of status.⁸¹
 - k. The naturalized citizen's membership in certain organizations.⁸²

IV. CONCLUSION

Compliance with any and all requirements for naturalization is critical to a successful representation of an applicant for naturalization. Moreover, knowledge of the grounds of denaturalization is critical to properly advise an applicant for naturalization in the information that must be disclosed and the documentation that must be submitted to support the application.

⁷⁶ *U.S. v. Roja-Vasquez*, 97 F.Supp. 550 (W.D. Tex. 1951).

⁷⁷ *U.S. v. De Lucia*, 256 F.2d 487 (7th Cir. 1958).

⁷⁸ *U.S. v. D'Agostino*, 338 F.2d 490 (2d Cir. 1964); *U.S. v. Mira*, 41 F.Supp. 224 (S.D. W.Va. 1941); *U.S. v. Zgrebec*, 38 F.Supp. 127 (E.D. Mich. 1941); *U.S. v. Wisdom*, 320 F.Supp. 286 (E.D. Tenn. 1970); *Lumantes v. U.S.*, 232 F.2d 216 (9th Cir. 1956).

⁷⁹ *U.S. v. Ekpin*, 214 F.Supp.2d 707 (D.D. Tex. 2002). **Practice Pointer:** If denaturalization is to be based on criminal convictions subsequent to naturalization based on failure to disclose commission of unlawful acts or convictions which were not revealed by the applicant during the naturalization process, the convictions must be documented in accordance with the requirements of the Federal Rules of Evidence. *U.S. v. Perlmutter*, 693 F.2d 1290 (9th Cir. 1982).

⁸⁰ INA § 340(a). Under Section 340(a), the naturalized citizen's refusal to testify as a witness in any proceeding before a congressional committee concerning his or her alleged subversive activities, within ten (10) years following the applicants naturalization, in a case where such person has been convicted of contemp constitutes a ground of revocation of the person's naturalization as having been procured by concealment of a material or willful misrepresentation.

⁸¹ INA § 246(a)-(b).

⁸² INA §§ 313 and 340(c).