

Falls Church, Virginia 22041

File: D2005-094

Date: JUN 3 2005

In re: CHAIM HOWARD BERGLAS, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

ORDER:

PER CURIAM. On March 1, 2005, the respondent was suspended from the practice of law for a period of 1 year, effective April 4, 2005, by the New York Supreme Court, Appellate Division, First Judicial Department.

Consequently, on April 28, 2005, the Office of General Counsel for the Executive Office for Immigration Review petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On May 4, 2005, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that the respondent be similarly suspended from practice before that agency. Therefore, on May 11, 2005, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline. *See* 8 C.F.R. § 1003.105(c)(1). On May 12, 2005, the Board received a timely Answer. The Answer states that the respondent does not wish to contest the allegations in the Notice of Intent to Discipline. The respondent did not request a hearing on the matter, and he has therefore waived a hearing on the charges. 8 C.F.R. § 1003.105(c)(3). We therefore find it appropriate to issue a final order on the OGC's charges.¹

The Notice of Intent to Discipline recommends that the respondent be suspended from practicing before the Board and the Immigration Courts, for a period of 1 year. The DHS asks that we extend that discipline to practice before it as well. Since the recommendation is appropriate in light of the respondent's suspension from the practice of law in New York, we will honor the government's recommendation. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 1 year. As the respondent is currently under our May 11, 2005, order of suspension, we will deem the respondent's suspension to have commenced on that date. The respondent is instructed to maintain compliance with the directives

¹On May 16, 2005, we notified the parties that the case had been forwarded to the Office of the Chief Immigration Judge, so that an Immigration Judge could be appointed as an adjudicating officer. We have since determined, as explained in this order, that a hearing before an Immigration Judge is unwarranted.

set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him. We direct that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

After the suspension period expires, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS. *See* 8 C.F.R. § 1003.107(a). In order to be reinstated, the respondent must demonstrate that he meets the definition of an attorney or representative, as set forth in 8 C.F.R. § 1001.1(f) and (j). *Id.* Therefore, the respondent must show that he has been reinstated to practice law in New York before he may be reinstated by the Board. *See* 8 C.F.R. § 1001.1(f) (stating that term “attorney” does not include any individual under order suspending him from the practice of law).



FOR THE BOARD