

Falls Church, Virginia 22041

---

---

File: D2000-021

Date: **JAN 3 2001**

In re: ALLAN M. ELSTER, ESQUIRE

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF SERVICE: Javier Balasquide, Appellate Counsel

ORDER:

PER CURIAM. On October 12, 2000, the Supreme Court of Florida suspended the respondent from the practice of law in that state for a period of 3 years.

Consequently, on November 3, 2000, the Office of General Counsel for the Executive Office for Immigration Review initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On November 21, 2000, the Immigration and Naturalization Service moved to join that petition and asked that the respondent be similarly suspended from practice before that agency. On December 1, 2000, we suspended the respondent from practicing before the Board, the Immigration Courts, and the Service pending final disposition of this proceeding.

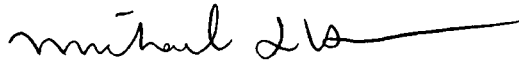
The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline. *See* 65 Fed. Reg. 39,513, 39,528 (June 27, 2000) (to be codified at 8 C.F.R. § 3.105(c)(1)). Though the respondent was properly served, the respondent has not filed an answer. *See id.* at 35,529 (to be codified at 8 C.F.R. § 3.105(d)(1)). The respondent's failure to do so within the time period prescribed in the Notice constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. *Id.* at 35,529 (to be codified at 8 C.F.R. § 3.105(d)(1), (2)).

The Notice recommends that the respondent be suspended from practicing before the EOIR for a period of 3 years, with reinstatement being conditioned on the respondent's satisfactory compliance with the regulatory requirements for reinstatement. The Service asks that we extend that discipline to practice before it as well. Because the respondent has failed to file an answer, the regulations direct us to adopt the recommendation contained in the Notice, unless there are considerations that compel us to digress from that recommendation. *Id.* at 35,529 (to be codified at 8 C.F.R. § 3.105(d)(2)). Since the recommendation is appropriate in light of the Supreme Court of Florida's disciplinary action, we will honor that recommendation.

Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the Service for a period of 3 years. As the respondent is currently under our December 1, 2000, order of suspension, we will deem the period of suspension to have commenced on that date. The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him.

At the end of his period of suspension, the respondent may seek reinstatement to practice before the Board, the Immigration Courts, and the Service, provided that he meets the definition of an attorney or representative set forth in 8 C.F.R. § 1.1(f) and (j). *See id.* at 39,530 (to be codified at 8 C.F.R. § 3.107(a)). The respondent is therefore instructed to notify the Board of his standing before the Supreme Court of the Florida and his ability to practice in that state. We will consider the respondent for reinstatement once he demonstrates by clear, unequivocal, and convincing evidence that he possesses the moral and professional qualifications required to appear before the Board, the Immigration Courts, or the Service, or all three, and that his reinstatement will not be detrimental to the administration of justice. *Id.* (to be codified at 8 C.F.R. § 3.107(b)(1)).

Finally, given the reciprocal nature of the discipline we impose, we advise the respondent that, should he be reinstated to practice in the state of Florida during his period of suspension, we will entertain a request for reinstatement before EOIR and the Service. Such a request must comply with the instructions set forth above and may not be filed in the first 1½ years of his suspension. *See id.* (to be codified at 8 C.F.R. § 3.107(b)).



---

FOR THE BOARD