

Falls Church, Virginia 22041

File: D2004-089

Date: JUL - 9 2004

In re: EARL S. DAVID, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Rachel A. McCarthy, Ethics Counsel

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Bar Counsel

ON BEHALF OF RESPONDENT: Richard E. Grayson, Esquire

ORDER:

PER CURIAM. On January 29, 2004, the New York Supreme Court, Appellate Division, First Judicial Department suspended the respondent from the practice of law in that state for a period of 15 months.

Consequently, on May 4, 2004, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service), initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. On May 7, 2004, the Office of General Counsel for the Executive Office for Immigration Review (EOIR) asked that the respondent be similarly suspended from practice before EOIR, including the Board and immigration courts.

The respondent filed an answer to the allegations contained in the Notice of Intent to Discipline on June 10, 2004. *See* 8 C.F.R. §§ 1292.3(d)(3); 1003.105(c). In his answer, the respondent admits all of the government's allegations, waives a hearing, and consents to the imposition of discipline in the form of a 15-month suspension, as requested by the government in the Notice of Intent to Discipline.

Given the respondent's admissions, we find that there is no need for a hearing in this matter. The Notice of Intent to Discipline recommends that the respondent be suspended from practicing before the DHS for a period of 15 months. The OGC asks that we extend that discipline to practice before the Board and immigration courts as well. Since the government's recommendation is appropriate in light of the sanctions imposed in New York, and since the respondent consents to the discipline, we will honor the recommendation. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 15 months.¹

¹As this is the final order in this case, it is not necessary for the Board to rule on the DHS' request that the respondent be immediately suspended pending a final decision concerning the respondent.

The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies. The respondent shall maintain records to evidence compliance with this order. Moreover, we direct that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS. The respondent is further instructed to notify the Board of any further disciplinary action against him.

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). The respondent may seek earlier reinstatement under appropriate circumstances. *See* 8 C.F.R. § 1003.107(b).



FOR THE BOARD