

Falls Church, Virginia 22041

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File: D2004-226

Date: SEP - 6 2005

In re: ALLEN C. MARRA, 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 February 28, 2002, the Supreme Court of New Jersey entered an order suspending the respondent from the practice of law for a period of 3 months, and until further order of the Court, effective March 22, 2002. According to the Office of General Counsel for the Executive Office for Immigration Review (Office of General Counsel), the respondent has not been reinstated to practice law in New Jersey.

The OGC alleged that there are ground for discipline of the respondent under 8 C.F.R. § 1003.102(e), in that he is subject to the New Jersey suspension order. The OGC also alleged that the respondent violated 8 C.F.R. § 1003.102(f)(1), by making false statements about his qualifications. That is, while suspended from the practice of law in New Jersey, the respondent filed notices of appearance with the Executive Office for Immigration Review, in which he misrepresented his status as a member in good standing of the New Jersey bar.

Consequently, on June 22, 2005, the OGC petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On June 27, 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. On July 6, 2005, the respondent was served with the Notice of Intent to Discipline. On July 18, 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 but has failed to do so. See 8 C.F.R. § 1003.105(c)(1). The respondent submitted a letter on July 26, 2005, in which he expressed an intention to file an answer to the Notice at some later date. However, no answer was filed. The respondent's failure to file a response 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. 8 C.F.R. § 1003.105(d)(1), (2).<sup>1</sup>

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<sup>1</sup>In his letter, the respondent contends that the Board erred in granting the immediate suspension order "unilaterally". However, the regulations provide that the Board may "immediately" suspend

The Notice recommends that the respondent be indefinitely suspended from practicing before the Board and the Immigration Courts. The DHS 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. 8 C.F.R. § 1003.105(d)(2). The recommendation is appropriate, and we will honor it. Accordingly, we hereby indefinitely suspend the respondent from practice before the Board, the Immigration Courts, and the DHS.

As the respondent is currently under our July 18, 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 set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him. 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 Jersey 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).



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FOR THE BOARD

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a practitioner who has been suspended. See 8 C.F.R. § 1003.103(a). An immediate suspension order may be set aside "upon good cause shown". *Id.* The respondent provided no reason to set aside the immediate suspension order.