

Falls Church, Virginia 22041

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File: D2003-082

Date: OCT 23 2003

In re: BRUCE C. BURGE, 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 September 1, 2001, the respondent was placed on "not entitled to practice law" status in California, based on his failure to pay membership fees, or comply with continuing education requirements. After paying the fees, and completing the legal education requirements, the respondent was returned to active status on December 18, 2001.<sup>1</sup> During the effective period of his suspension, the respondent filed five separate notices of appearance with the Executive Office for Immigration Review, San Francisco immigration court, in which he misrepresented his status as a member in good standing of the California bar.

Consequently, on July 31, 2003, the Office of General Counsel for the Executive Office for Immigration Review instituted these proceedings by filing a Notice of Intent to Discipline.<sup>2</sup> On August 5, 2003, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that any discipline imposed against Burge also apply to the respondent's authority to practice before the DHS. The OGC alleged that the respondent's conduct violated 8 C.F.R. § 1003.102(f)(1), which prohibits "[k]nowingly . . . mak [ing] a false or misleading communication about his or her qualifications or services." 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'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).

The Notice recommends that the respondent be suspended from practicing before the Board and the Immigration Courts, for a period of 6 months. 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 in light of respondent's actions, and we will therefore honor it.

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<sup>1</sup>The respondent was placed on involuntary inactive enrollment status by the Hearing Department of the State Bar Court, effective April 17, 2003.

<sup>2</sup> The OGC did not petition for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. *See* 8 C.F.R. § 3.103(a).

Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 6 months. The respondent is also 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 California 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