

Falls Church, Virginia 22041

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File: D2004-009

Date: March 1, 2005

In re: RAFAEL A. VELASQUEZ, 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

ORDER:

PER CURIAM. On November 26, 2003, the United States District Court for the Southern District of Florida, Miami Division, entered a judgment against the respondent in a criminal case. The respondent pled guilty on 2 counts of violating 18 U.S.C. § 1001 (making false statements). He was sentenced to probation for a term of 3 years as to each count, to run concurrently. The crimes are "serious crimes" within the meaning of 8 C.F.R. § 1003.102(h). On December 4, 2004, the respondent resigned from the State Bar of California, with charges pending.

Consequently, on January 28, 2005, 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 February 16, 2005, 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. Before we acted on the DHS' request for immediate suspension, the respondent on February 16, 2005, filed a "Resignation With Disciplinary Charges Pending."

The respondent was required to file an answer to the allegations contained in the Notice of Intent to Discipline. See 8 C.F.R. § 1003.105(c)(1); 1292.3(e)(3)(ii). In his "Resignation With Disciplinary Charges Pending", the respondent states that he intends to "resign and relinquish all my rights to practice law before the [DHS] and the EOIR." The respondent apparently intends for this "Resignation With Disciplinary Charges Pending" to serve as his answer to the allegations in the Notice of Intent to Discipline. The respondent does not request a hearing on the charges, and that opportunity is therefore waived. See 8 C.F.R. § 1003.105(c)(3). The respondent does not dispute any of the allegations in the Notice of Intent to Discipline. We therefore find it appropriate to issue a final order on the government's charges.

The Notice recommends that the respondent be expelled from practice before the DHS. The Office of General Counsel of EOIR asks that we extend that discipline to practice before the Board and immigration courts as well. Since the recommendation is appropriate in light of the respondent's criminal record, we will honor that recommendation. Accordingly, we hereby expel the respondent from practice before the Board, the Immigration Courts, and the DHS. 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 expelled 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 may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107(a).



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FOR THE BOARD