

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF IMMIGRATION JUDGE  
5107 LEESBURG PIKE, SUITE 1800  
FALLS CHURCH, VA 22041

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CHIEF IMMIGRATION JUDGE  
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In the Matter of:

Case No: D2007-112

Hector M. Roman

Respondent.

IN DISCIPLINARY PROCEEDINGS

ON BEHALF OF RESPONDENT:

Hector M. Roman  
Roman & Singh, LLP  
37-18 73<sup>rd</sup> Street, Suite 401  
Jackson Heights, New York 11372

ON BEHALF OF THE GOVERNMENT:

Jennifer J. Barnes  
Bar Counsel  
Office of General Counsel  
5107 Leesburg Pike, Suite 2600  
Falls Church, Virginia 22041  
  
Eileen Connolly  
Appellate Litigation Protection Law Division  
Department of Homeland Security  
5113 Leesburg Pike, Suite 200  
Falls Church, Virginia 22041

ORDER OF THE IMMIGRATION JUDGE

ORDER: It is hereby ordered that:

1. The ground(s) \_\_\_\_\_ set forth in the Notice of Intent to Discipline have not been established by clear, convincing, and unequivocal evidence and are, hereby, dismissed.

2. All of the ground(s) set forth in the Notice of Intent to Discipline have been established by clear, convincing, and unequivocal evidence.

The following disciplinary sanction shall be imposed:

Practitioner shall be permanently expelled from practice before:  
 The Board of Immigration Appeals and the Immigration Courts  
 The Immigration and Naturalization Service  
 Both

Practitioner shall be suspended from practice before:  
 The Board of Immigration Appeals and the Immigration Courts  
 The Immigration and Naturalization Service (6 months)

Both  
Until November 19, 2007  
 Practitioner shall be publically/privately censured  
 Other appropriate disciplinary sanction

Date: 8/31/07

Garry D. Malphrus

Garry D. Malphrus  
U.S. Immigration Judge

APPEAL: RESERVED

APPEAL DUE BY: OCTOBER 2, 2007

Attached Order and Decision of the Adjudication Official  
EOIR 45

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)  
TO:  PRACTITIONER  PRACTITIONER'S ATT/REP  DHS/EOIR  
DATE: 9/6/07 BY: COURT STAFF y [signature]

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
UNITED STATES IMMIGRATION COURT  
ARLINGTON, VIRGINIA**

<b>IN THE MATTER OF:</b>	)	<b>ATTORNEY DISCIPLINE PROCEEDINGS</b>
	)	
<b>ROMAN, HECTOR M.</b>	)	<b>Attorney Discipline Case #D2007-112</b>
	)	
<b>Respondent.</b>	)	
_____	)	

Hector M. Roman  
Roman & Singh, LLP  
37-18 73rd Street, Suite 401  
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**DECISION AND ORDER**

**PROCEDURAL HISTORY**

~~On March 30, 2007, United States Court of Appeals of the Ninth Circuit suspended the Respondent from the practice of law in that court for six months for violations of court rules, court orders, and ethical rules. As a result of this decision, on May 1, 2007, the Office of General Counsel for the Executive Office for Immigration Review (EOIR) initiated disciplinary proceedings against the Respondent by filing the Notice of Intent to Discipline (NID), seeking a reciprocal six month suspension. The Office of General Counsel also petitioned the Board of Immigration Appeals (BIA) for Respondent's immediate suspension from the practice of law. On May 10, 2007, the Department of Homeland Security (DHS) requested that the Respondent be suspended from practice before that agency as well. On May 22, 2007, the BIA granted the petition for immediate suspension, thereby suspending the Respondent from the practice of law before the BIA, the Immigration Court, and DHS pending final disposition of this matter. 8 C.F.R. § 1003.103(a).~~

The BIA granted DHS's motion to join these proceedings. If further action is needed by the undersigned regarding the DHS motion, the undersigned hereby orders that DHS's motion to join in these proceedings is granted.

The Respondent filed an answer to the NID on June 18, 2007. The undersigned was appointed the adjudication official in this matter by the Chief Immigration Judge on July 31, 2007.

The undersigned held a conference call with the parties on August 28, 2007, where each summarized their arguments. The Respondent's answer did not contain a request for a hearing, and the Respondent declined to request a hearing during the call, but instead wished to rely on his written answer. Thus, Respondent has waived his right to a hearing. 8 C.F.R. § 1003.106(a)(1).

Based on a review of the record as a whole, the undersigned concludes that the requested reciprocal suspension is appropriate.

### ANALYSIS AND DISCUSSION

Discipline should be imposed based on another jurisdiction's disciplinary order unless the Respondent demonstrates by clear and convincing evidence that an exception to this rule should apply in his case. 8 C.F.R. § 1003.103(b)(2). Here, Respondent claims that the exception that is applicable in his case is that discipline would result in "grave injustice." 8 C.F.R. § 1003.103(b)(2)(iii).

The Respondent does not dispute the factual allegations in the NID, or the factual findings of the Ninth Circuit. Instead, the Respondent argues that there are various mitigating factors and issues that he believes would warrant these proceedings being dismissed in their entirety or at most would warrant a censure or warning letter.

In this matter, the Ninth Circuit, in adopting the Report and Recommendation of the Appellate Commissioner, found as to the Respondent "multiple instances of misconduct, a pattern of neglect, a prior instance of discipline, and instances of misconduct . . . occurring after commencement of this disciplinary proceeding." (Report and Recommendation, page 34.) The Respondent's actions before the Ninth Circuit constituted "negligent misconduct." (*Id.*, page 30). While Respondent's conduct was not based on malice or intentional efforts to cause harm, his negligent misconduct involved numerous matters. The Ninth Circuit details how the Respondent violated numerous court rules, court orders, and ethical rules.

Respondent notes that he has practiced law for eleven years and has represented thousands of immigration clients. He also notes that the Ninth Circuit found various mitigating factors to exist in his case. However, the Ninth Circuit weighted the mitigating factors against the aggravating factors to reach its conclusion that a suspension for six months was appropriate. The mitigating factors do not establish that discipline, and specifically a six month suspension reciprocal to the Ninth Circuit decision, is not warranted here.

Many of the violations in this matter resulted from the actions of the Respondent as a managing partner of the law firm failing to maintain an adequate system to monitor cases. The respondent explains that as a result of the Ninth Circuit's action he has instituted a sophisticated computerized case management and calendaring system for tracking the firm's caseload. However, while the Respondent's remedial measures are important for establishing that he should be allowed to return to the practice of law in the future, they are not adequate to establish that no punishment is warranted for prior misconduct. They certainly do not establish that a grave injustice would occur if punishment were imposed for that prior conduct.

Respondent argues it would be an extreme financial hardship for him to be suspended from practice in the Immigration Courts, the BIA, and DHS because his law practice is in the immigration field. However, this hardship is mitigated to some extent by the fact that Respondent is not a sole practitioner but is a managing partner of a law firm with two offices, and should be able to continue to be involved in the firm in other ways during his suspension period. Even if he is having to hire attorneys to handle matters that he would otherwise handle and cannot take cases that he would otherwise take, the financial hardship for a six month suspension does not rise to the level of a grave injustice. Indeed, if financial hardship were ever adequate in itself to establish a grave injustice, almost any attorney whose legal practice was his livelihood could avoid reciprocal discipline.

The Respondent stresses in his answer that no client was actually harmed by his actions. However, as the Ninth Circuit noted, clients could have been harmed by his actions. The potential for harm to the clients was real. It is only due to the generosity of the Ninth Circuit, such as through its grant of motions to reopen or reinstate briefing schedules that the Ninth Circuit had not obligation to grant, that the Respondent did not cause harm to his clients.

The undersigned appreciates the Respondent's cooperation in these proceedings, and believes the Respondent is genuinely remorseful for his conduct. The court also believes he has instituted remedial measures to prevent these problems in the future. However, the issue for the undersigned is whether reciprocal discipline is warranted for the Respondent's misconduct and whether such discipline would constitute a grave injustice.

~~After a careful review of the record as a whole, the undersigned finds that the grounds for discipline in the NID have been established by clear, unequivocal, and convincing evidence.~~ The undersigned further concludes that the six month suspension by the Ninth Circuit was supported by the facts and circumstances, and is entitled to respect in this body. The undersigned rejects the Respondent's claim that the reciprocal suspension would constitute a grave injustice for the reasons discussed above.

Accordingly, the undersigned finds that the Respondent is subject to a final order of suspension. The Respondent is hereby suspended from practicing before the Immigration Court, the BIA, and DHS from the date of the Order of the BIA, which was May 22, 2007, for a period of six months.

**ORDER**

IT IS THEREFORE ORDERED THAT the Respondent is hereby suspended from the practice of law before the Immigration Court, the BIA, and DHS for a period of six months, with reinstatement to practice before the Immigration Court, the BIA, and DHS conditioned on Respondent's satisfactory compliance with the reinstatement requirements set forth in 8 C.F.R. § 1003.107(a), including his ability to establish that he meets the definition of attorney, as provided in 8 C.F.R. § 1001.1(f).

Respondent has the right to appeal this decision to the BIA pursuant to 8 C.F.R. § 1003.106(c). A notice of appeal must be filed in accordance with all pertinent provisions for appeals to the BIA, including provisions related to forms and fees, as set forth in 8 C.F.R. Part 3.

August 31, 2007



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Garry D. Malphrus  
Immigration Judge