UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF IMMIGRATION JUDGE
5107 LEESBURG PIKE, SUITE 2500
FALLS CHURCH, VA 22041

File: D2005-215

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Edward Haase | ) | IN DISCIPLINARY PROCEEDINGS |
| | ) | |
| Respondent. | ) | |

ON BEHALF OF RESPONDENT:
Pro se

ON BEHALF OF THE GOVERNMENT:
Jennifer J. Barnes, Bar Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

Eileen Connolly, Esq.
Appellate Counsel
Appellate Litigation Protection Law
Division, DHS
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.

[x ] 2. The ground(s) (violation of Rule 102(l) of the Rules of Professional Conduct and violation of 8 CFR §1003.102(l)) set forth in the Notice of Intent to Discipline have been established by clear, convincing, and unequivocal evidence. Any remaining 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.

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
- [ ] Both

Until_____

[x] Practitioner shall be publically censured

[ ] Other appropriate disciplinary sanction

_____

_____

_____

Date: 9-5-06

David W. Crosland

David W. Crosland
Assistant Immigration Judge

APPEAL: WAIVED/RESERVED
APPEAL DUE BY: October 5, 2006
ATTACHED: EOIR 45 and ORDER

**UNITED STATES DEPARTMENT OF JUSTICE**
**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**
**IN PRACTITIONER DISCIPLINARY PROCEEDINGS**
**BEFORE THE IMMIGRATION COURT**

| | | |
|---|---|---|
| **In the Matter of** | ) | |
| | ) | |
| **EDWARD HAASE,** | ) | **Disciplinary Case # D2005-215** |
| | ) | |
| **Respondent.** | ) | |
| | ) | |

**ORDER**

In a decision dated August 1, 2005, Immigration Judge Robert J. Barrett ruled that Respondent, Attorney Edward Haase, rendered ineffective assistance of counsel in the case of his client, Miralia Perez-Arnado, A78 779 106, in the course of representing her before the immigration court in San Diego, California. As a result, the Office of the General Counsel, Executive Office for Immigration Review ("OGC"), initiated disciplinary proceedings against Respondent, pursuant to 8 C.F.R. § 1003.102(k).

A pre-hearing conference was scheduled for January 24, 2006, at 1:00pm EST, in which Jennifer Barnes, Bar Counsel, OGC, and Mr. Haase were both present. Mr. Haase appeared by televideo from the San Diego Immigration Court. Although Mr. Haase appeared at the scheduled time, he indicated on the record that he was unprepared to go forward at that time and requested that the hearing be adjourned for one (1) hour so that he could retrieve his file from his office. The case was adjourned and the parties reconvened at 2:00pm EST.

At that time, Mr. Haase admitted allegations #1, 2, 3, and 5, and denied allegations # 4 and 6. He stated that although he failed to appear for the hearing held by Judge Barrett on June 17, 2005, a hearing scheduled specifically to determine whether he provided ineffective assistance of counsel to Ms. Perez-Arnado, Mr. Haase denied, in these disciplinary proceedings, that he engaged in ineffective assistance of counsel. The Court requested Bar Counsel to obtain the Record of Proceeding ("ROP") in Ms. Perez-Arnado's immigration case, and then to submit to the Court by March 15, 2006, any additional evidence from the ROP which might be relevant to the ineffective assistance of counsel issue. The next hearing was scheduled for March 20, 2006, at 1:00pm EST.

On February 27, 2006, Bar Counsel submitted the additional evidence requested by the Court. This evidence consisted of copies of: (1) the Record of Sworn Statement (Form I-867) by the alien taken at the port of entry when the alien sought admission. The document reflects clearly that the alien did in fact attempt to gain entry into the United States by the fraudulent use of a lawful permanent alien card bearing the name of someone other than the respondent in the removal proceedings; (2) a Record of Deportable/Inadmissible Alien (Form I-213) reflecting that the alien purchased the lawful permanent alien card in Mexico for $50.00 for the purpose of procuring entry to the United States through fraud; (3) a Supervisor's Supplemental statement confirming that the alien had purchased a lawful permanent alien card in Mexico for $50.00 for the purpose of presenting it at the port of entry for admission to the United States and that the alien knew that to do so was fraudulent and illegal, and; (4) a copy of said lawful permanent resident alien card bearing the name of a person who is not the alien. Based on this evidence, which was part of the original record and available to Mr. Haase at the time of the pleading, this

Court finds that Mr. Haase did not provide ineffective assistance of counsel to the alien, but rather, he acted correctly in entering a plea on behalf of his client admitting the charges of removability. The Court further finds that the alien made a claim of ineffective assistance of counsel in contravention of the facts of the record for the purpose of persuading the immigration court that she was entitled to some form of relief.

After noticing the parties of the scheduled hearing, on March 20, 2006, the Court convened a televideo hearing; however, Mr. Haase did not appear. Notice of the hearing had been sent by Federal Express to Mr. Haase's business address at 110 West C Street, Suite 709, San Diego, CA 92101, but that address was determined to no longer be an accurate address for Mr. Haase, according to Federal Express. A new address for Mr. Haase was found at 501 West Broadway, San Diego, CA 92101, and the Federal Express package was rerouted to that address. Another copy of the Notice of Hearing was also sent to the new address. All of these packages were returned as undeliverable. Numerous attempts to contact Mr. Haase by telephone and e-mail were made by the Court clerk and messages were left on his voicemail, including a voicemail message left on the morning of the scheduled hearing on March 20, 2006.

Subsequent to the March 20, 2006 hearing, a hearing by televideo was scheduled for May 10, 2006. Again Mr. Haase did not appear. The Court indicated its unwillingness to enter an order finding that Mr. Haase had provided ineffective assistance of counsel but was prepared to enter an order based on Mr. Haase's failing to appear. Ms. Barnes filed an amended charge on May 19, 2006 in which Mr. Haase was charged with a failure to appear at scheduled hearings after having received notice of such hearings. Again efforts to serve Mr. Haase were stymied by

not having a good address for Mr. Haase to serve the amended charge. Finally in July, 2006. Mr. Haase contacted Ms. Jennifer Barnes asking about the status of the proceeding. He then provided a good address and telephone number to Ms. Barnes and to the clerk of court. Following that, Mr. Haase surfaced in July 2006, and he was served with the additional evidence filed with the Court on February 27, 2006 and with the new charge which had been filed with the Court on May 17, 2006.

The next hearing was scheduled on August 30 after the court clerk contacted Mr. Haase. Mr. Haase agreed to a telephonic conference, and he selected the date and time of the conference to which Ms. Barnes agreed. Again Mr. Haase failed to respond to telephone calls, and the proceeding was held in absentia.

Therefore, based on these failures to appear, this Court finds that Mr. Haase is in violation of Rule 102(l) of the Rules of Professional Conduct, namely, that he has repeatedly failed to appear for scheduled hearings in a timely manner without good cause, in violation of 8 C.F.R. § 1003.102(l). Mr. Haase failed to appear before Judge Barrett on June 17, 2005, and before this Court on March 20, 2006. It is important to note that Mr. Haase was previously disciplined for violating the same Rule of Professional Conduct on December 22, 2003, by Bar Counsel and received an informal admonition. Although this informal admonition was to remain confidential at the time, it has now become part of the public record since Mr. Haase is now subject to a subsequent Notice of Intent to Discipline based upon unrelated misconduct.

Although the Court has found that Mr. Haase did not render ineffective assistance of counsel to his client based on the evidence reflecting the circumstances of his client's attempted admission to the United States, and although the Court does not find that the failure of Mr. Haase to attend a hearing before Immigration Judge Robert Barrett on this issue constituted an admission of ineffective assistance of counsel to his client, nevertheless, the Court finds that the failure of Mr. Haase to appear at that hearing, other hearings and at this hearing after proper notice is conduct warranting public censure. As a result of Mr. Haase's repeated failures to appear, not only in his clients' cases but in his own disciplinary case, showing his complete disregard for this Court and its authority, it is appropriate that he receive a public censure for his misconduct. It should be noted that after proper notice to Mr. Haase of the hearings before this Court, Mr. Haase failed to appear on March 20, May 10, 2006 and on August 30, 2006.

Therefore, it is ORDERED AND ADJUDGED that Respondent shall receive a public censure. Notice of this discipline shall be posted at all Immigration Courts and at the appropriate offices of the Department of Homeland Security.

Date: 9-5-06

David W. Crosland
Assistant Chief Immigration Judge

## CERTIFICATE OF SERVICE

This Order on Case D2005-215 was served on the following persons in the manner so noted on this the 5th day of September 2006:

cc: Jennifer J. Barnes
Bar Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041
(Hand Delivery)

Eileen Connolly
Appellate Counsel
Appellate Litigation Protection Law Division, DHS
5113 Leesburg Pike, Suite 200
Falls Church, VA 22041
(Mail)

Edward W. Haase, Esquire
6653 Convoy Court
San Diego, CA 92111
(Certified Mail)

Mark L. Pasierb
Chief Clerk of the Immigration Court

U.S. Department of Justice
Executive Office for Immigration Review
*Board of Immigration Appeals*

# Notice of Appeal to the Board of Immigration Appeals of Decision of Adjudicating Official in Practitioner Disciplinary Case

**For Official Use Only**

1. List Name of Practitioner: _____

   Case Number: _____

   Address: _____
   (Number and Street) (Suite No.)

   _____
   (City) (State) (Zip Code)

2. Date of Adjudicating Official's decision: _____

3. **Basis for Appeal — Please explain in detail the basis for your appeal. Use additional sheets of paper if necessary and attach to this form. Failure to specify the factual or legal basis for your appeal may lead to summary dismissal without further notice, unless you provide specific details in a timely written brief or statement filed with the Board.**

(Attach more sheets if necessary.)

Staple check or money order here.
Include practitioner's name and case number on the check.

Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing the data needed, completing and reviewing the collection of information, and record-keeping. Send comments regarding this this burden estimate or any other aspect of this information collection including suggestions for reviewing this burden to the Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041.

(Form continues on back)

4. I ☐ do ☐ do not request oral argument before the Board of Immigration Appeals.

5. I ☐ will ☐ will not file a separate written brief or statement in addition to the "Basis for Appeal" written above or accompanying this form.

**Your appeal may be summarily dismissed by the Board of Immigration Appeals if you indicate in Item #5 that you will file a separate written brief or statement and you fail to file such a brief or statement within the time period scheduled and you do not reasonably explain such failure.**

6. Name of Practitioner's Attorney or Representative:

_____

Address: _____
(Number and Street) (Suite No.)

_____
(City) (State) (Zip Code)

**An attorney or representative will not be recognized as the attorney of record on appeal and will not receive documents or correspondence in connection with appeal unless he or she submits a completed Form EOIR-27.**

X _____ _____
Signature of Practitioner (or Practitioner's Attorney or Representative) Date

## CERTIFICATE OF SERVICE
(Must Be Completed)

I _____ mailed or delivered a copy of this notice of appeal
(Name)

on _____ to _____
(Date) (Appellee—INS or EOIR)

at _____
(Address of Appellee)

X _____
Signature of Practitioner (or Practitioner's Attorney or Representative)

**Be sure you have:**

- ☐ Read all of the General Instructions
- ☐ Provided all of the requested information
- ☐ Completed and signed the Certificate of Service
- ☐ Attached the required fee or fee waiver request
- ☐ Signed the form
- ☐ Served a copy of this form and all attachments on the Office of the General Counsel, ATTN: Bar Counsel Executive Office for Immigration Review or, where the Immigration and Naturalization Service is the appellee, the Office of the General Counsel, INS

**U.S. Department of Justice**
Executive Office for Immigration Review
*Board of Immigration Appeals*

# Notice of Appeal to the Board of Immigration Appeals of Decision of Adjudicating Official in Practitioner Disciplinary Case

**General Instructions—Please read carefully before completing and filing Form EOIR-45.**

## 1. When and Where to Appeal:

- You must send the Notice of Appeal, Form EOIR-45, so that it is received by the Board of Immigration Appeals (Board) within thirty (30) calendar days after the Adjudicating Official's oral decision or, if no oral decision was rendered, within thirty (30) calendar days after the date the Adjudicating Official's written decision was mailed.

- Simply mailing the Notice of Appeal within the time limit may not insure that the notice of Appeal is timely received by the Board. If your Notice of Appeal is received outside of the time limit, it will be dismissed as untimely. Send or deliver your Notice of Appeal to:

**Board of Immigration Appeals, Clerk's Office (note on the envelope *Disciplinary Appeal*)**

| If by courier, overnight delivery service, or in person: | If by regular first class mail: |
|---|---|
| 5107 Leesburg Pike, Suite 2000 | P.O. Box 8530 |
| Falls Church, VA 22041 | Falls Church, VA 22041 |
| (Hrs: Mon—Fri 8:00am to 4:30pm) | |

## 2. How to Pay for the Appeal:

- Attached to the Notice of Appeal, Form EOIR-45, a check or money order for exactly one hundred and ten dollars (U.S. $110) payable to the "United States Department of Justice." All checks must be drawn on a bank located in the United States. Write the Practitioner's name and the case number on the check or money order.

- If you cannot pay for the appeal, you must complete and submit a Fee Waiver Request (Form EOIR-26A). The Board will review your request and decide whether to allow the appeal to be filed without payment of the required fee:

## 3. Representation by an Attorney or Representative:

- You may be represented by an attorney or a representative who is authorized to appear before the Board. The government will not pay for your attorney or representative.

- If you are represented by an attorney or representative, he or she must file a notice of Entry of Appearance Before the Board of Immigration Appeals (Form EOIR-27) at the same time this Notice of Appeal, Form EOIR-45, is filed.

## 4. Submission of Briefs:

- You must state detailed reasons for your appeal on the Notice of Appeal, Form EOIR-45, even if you indicate that you intend to file a brief. Please indicate in Item #5 on the Notice of Appeal, Form EOIR-45, if you will file a separate written brief or statement with the board. The Board will send you a briefing schedule and, in most cases, a hearing transcript.

- Send a copy of your brief or statement to the Office of the General Counsel of the Executive Office for Immigration and Naturalization Service, whichever is the appellee in your case. You must also provide the Board with a certificate of the service stating that you have mailed or delivered the brief or statement to EOIR or INS, as appropriate.

Office of the General Counsel, EOIR
ATTN: Bar Counsel
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

Office of the General Counsel, INS
ATTN: Appellate Counsel
5113 Leesburg Pike, Suite 200
Falls Church, Virginia 22041

## 5. Summary Dismissal of Appeal:

- The board may summarily dismiss any appeal for any of the following reasons: 1) the practitioner fails to specify the reasons for the appeal; 2) the only reason specified by the practitioner for his or her appeal involves a finding of fact or conclusion of law which was concealed by him or her in the disciplinary proceeding below; 3) the Board is satisfied, from a review of the record, that the appeal is filed for an improper purpose, such as to cause unnecessary delay, or that the appeal lacks an arguable basis in fact or law; 4) the practitioner indicates that he or she will file a separate written brief or statement in support of the appeal and he or she fails to file such a brief or statement within the time period scheduled and does not reasonably explain such failure; and/or 5) the appeal fails to meet essential statutory or regulatory requirements.

## 6. Request for Oral Argument:

- If you indicate in Item #4 on Form EOIR-45 that you request oral argument before the board, the Board will inform you if your request is granted. The Board ordinarily will not grant a request for oral argument unless you also file a separate written brief or statement.

## 7. Notification of Change of Address:

- You or your attorney or representative must notify the Board within five (5) days of any change in address or telephone number by submitting the Form EOIR-27 (use Additional Information section.) A change of address notification is effective only for the case in which it is submitted.