

Falls Church, Virginia 22041

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File: D2005-188

Date: JAN 30 2006

In re: DAVID J. RODKIN, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

On November 22, 2005, the Board issued a final order of discipline against the respondent, and suspended him from practice before the Board, the Immigration Courts, and the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) for a period of 6 months. On December 21, 2005, the respondent submitted a motion to reconsider.


As noted in our earlier decision, on July 21, 2005, the respondent was suspended from the practice of law for a period of 6 months, by the New York Supreme Court, Appellate Division, First Judicial Department. In his motion, the respondent states that he has not practiced law since the effective date of his suspension, August 22, 2005. The respondent states that he will be reinstated to practice law in New York on February 22, 2006.

The Office of General Counsel accepts the respondent's statement that he has refrained from practicing law during the effective date of his suspension in New York. Therefore, the Office of General Counsel recommends that the Board amend its November 22, 2005, order to be effective *nunc pro tunc* to August 22, 2005, the effective date of the New York suspension order. We agree with the Office of General Counsel that such amendment is reasonable under the circumstances and it is so ordered.

The respondent seeks to have his suspension period "expire contemporaneously with the termination of his suspension from the New York Bar on February 22, 2006." Yet as the Office of General Counsel states, the respondent must petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. §§ 1003.107(a), (b). 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 York 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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ORDER: The Board's November 22, 2005, order in this case is amended so the order of discipline against the respondent is effective *nunc pro tunc* to August 22, 2005, the effective date of the suspension order in New York.



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FOR THE BOARD