



U.S. Department of Justice
Executive Office for Immigration Review
Tucson Immigration Court
300 West Congress Street, Suite 300
Tucson, Arizona 85701

July 1, 2020

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

IN RE: Jose A. Bracamonte
FILE: D2016-0070

ON BEHALF OF RESPONDENT:

Mark I. Harrison, Esq.
Joshua D. Bendor, Esq.
Osborn Maledon, P.A.
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012

ON BEHALF OF EOIR:

Paul A. Rodrigues
Disciplinary Counsel
Executive Office for Immigration Review
U.S. Department of Justice
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

ON BEHALF OF DHS:

Catherine M. O'Connell
Disciplinary Counsel
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
11411 East Jefferson Avenue
Detroit, Michigan 48212

DECISION AND FINAL ORDER OF THE ADJUDICATING OFFICIAL

On November 3, 2016, Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") and the Department of Homeland Security ("DHS") jointly filed a Notice of Intent to Discipline ("NID") in the above-captioned matter pursuant to 8 C.F.R. §§ 292.3(e)(1) and 1003.105(a) (2020), thereby initiating disciplinary proceedings against the above-named Respondent. (Exh. 1.) Based on the allegations set forth in the NID, Disciplinary Counsel proposed that "Respondent be disbarred from practice before the DHS, Board of Immigration Appeals, and the Immigration Courts." (*Id.* at 46.) On December 22, 2016, Respondent filed an answer to the NID pursuant to 8 C.F.R. § 1003.105(c). (Exh. 5.)

On June 29, 2020, Respondent, EOIR Disciplinary Counsel, and DHS Disciplinary Counsel filed a Joint Motion to Approve Settlement Agreement and Enter Final Order, along

with a Settlement Agreement signed by the aforementioned parties, pursuant to 8 C.F.R. § 1003.106(a)(2)(ii). (Joint Motion to Approve Settlement Agreement and Enter Final Order (June 29, 2020).) The parties therein request that the Adjudicating Official approve the Settlement Agreement and enter a final order of discipline. (*Id.* at 2.)

In the Settlement Agreement, Respondent “admits that he engaged in the conduct alleged in the [NID] and that his conduct violated the Rules of Professional Conduct found at 8 C.F.R. § 1003.102.” (*Id.*, Attach. 1 ¶ 1(b)(i).) Pursuant to the terms of the Settlement Agreement, the parties agree to resolve this matter through the Adjudicating Official imposing on Respondent a 45-day suspension “from practice before the Immigration Courts, the Board of Immigration Appeals, and the DHS[.]” (*Id.*, Attach. 1 ¶ 1(a)(i), (b)(ii).)

Upon due consideration of the Settlement Agreement, and for good cause shown, the undersigned Adjudicating Official will grant the Joint Motion to Approve the Settlement Agreement and Enter Final Order pursuant to 8 C.F.R. § 1003.106(a)(2)(ii), (b). Accordingly, the undersigned Adjudicating Official will enter the following orders, consistent with the terms of the Settlement Agreement:

IT IS HEREBY ORDERED that the Joint Motion to Approve Settlement Agreement and Enter Final Order is **GRANTED**.

IT IS FURTHER ORDERED that the Settlement Agreement—attached hereto at Appendix A—is approved and is hereby incorporated in its entirety into the instant Final Order.

IT IS FURTHER ORDERED that, pursuant to the terms of the Settlement Agreement, Respondent be suspended from the practice of law before the Immigration Courts, the Board of Immigration Appeals, and the Department of Homeland Security for a period of 45 days.

IT IS FURTHER ORDERED that, pursuant to the terms of the Settlement Agreement, Respondent’s suspension shall commence 14 days from the date of the instant Final Order, beginning **JULY 15, 2020**, and ending **AUGUST 29, 2020**.

IT IS FURTHER ORDERED that, pursuant to the terms of the Settlement Agreement, Respondent may apply for reinstatement after August 29, 2020.

IT IS LASTLY ORDERED that all future hearings scheduled in this matter are **VACATED**.

Irene C. Feldman, Adjudicating Official
Assistant Chief Immigration Judge

APPENDIX A

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

In the Matter of

JOSE A. BRACAMONTE,

Respondent.

)
) **Disciplinary Case No. D2016-0070**
)
)
)

) **Adjudicating Official: Hon. Irene Feldman**
)

SETTLEMENT AGREEMENT

Respondent Jose A. Bracamonte and the Disciplinary Counsel for the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) agree that it is in the mutual and best interest of both parties to affect a resolution to the above-captioned case without further litigation. The parties adopt the following terms and conditions of this settlement agreement.

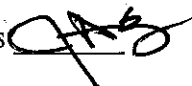
1. In consideration for resolving these proceedings without further litigation:
 - a. The DHS and EOIR Disciplinary Counsel:
 - i. agree to resolve this matter through the Adjudicating Official imposing on Respondent a 45-day suspension from practice before the Board of Immigration Appeals (Board), the Immigration Courts, and DHS; and
 - ii. acknowledge that to date, neither the DHS nor the EOIR Disciplinary Counsel has received any complaints from Respondent's clients; and
 - iii. waive any right to appeal any matter related to the November 3, 2016 Notice of Intent to Discipline if the Adjudicating Official enters an order that is wholly and exclusively in accordance with the agreed-upon terms of this Settlement Agreement.
 - b. Respondent:
 - i. admits that he engaged in the conduct alleged in the November 3, 2016 Notice of Intent to Discipline and that his conduct violated the Rules of Professional Conduct found at 8 C.F.R. § 1003.102. Specifically, Respondent acknowledges that it was improper to file asylum applications without an indicated basis for asylum or an indication as to any asylum claim, to cancel or otherwise advise clients to fail to appear for asylum



interviews, and to not demonstrate a clear intention to pursue an asylum claim, in order to cause DHS to issue a Notice to Appear to his clients;

- ii. agrees to a 45-day suspension from practice before the Board, the Immigration Courts, and DHS. Respondent understands that following completion of his suspension, he must seek reinstatement to practice before the Board, the Immigration Courts, and DHS pursuant to 8 C.F.R. § 1003.107;
- iii. agrees that he will indicate a basis for asylum and include an explanation of the asylum claim in future asylum applications, whether filed before United States Citizenship and Immigration Services (USCIS) or EOIR. The applications will be well-grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, and not submitted for an improper purpose, such as to solely seek cancellation of removal in immigration court. Respondent must acknowledge asylum claims seemingly foreclosed by caselaw and present a good faith argument for the modification or reversal of such caselaw or the establishment of new law;
- iv. agrees that he and his clients who file asylum applications before USCIS will fully pursue asylum before USCIS. In so doing, Respondent will not advise his clients to cancel, without rescheduling, or to fail to appear for scheduled asylum interviews;
- v. waives any right he may have to a hearing or appeal on any matter related to the November 3, 2016 Notice of Intent to Discipline if the Adjudicating Official enters an order that is wholly and exclusively in accordance with the agreed-upon terms of this Settlement Agreement;
- vi. agrees for himself, his successors, and his assigns, to release and forever discharge the U.S. Department of Homeland Security and the U.S. Department of Justice and their officers, agents, and employees, whether in official or individual capacities, from any and all claims, liabilities, actions, causes of action, and rights, known and unknown, arising from the above-captioned case, up to and including the execution of this settlement agreement; and
- vii. agrees not to file any administrative or court challenge to this agreement.

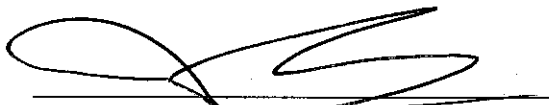
2. The parties agree that Respondent's suspension shall commence 14 days from the date the Adjudicating Official issues a final order approving this settlement agreement. During the 14-day period before the suspension commences, in order to comply with the terms and conditions of this agreement, Respondent will withdraw from any pending immigration matters and will notify the affected client(s) of his suspension. During the



suspension period and until Respondent is reinstated to practice, Respondent will not engage in the practice of immigration law.

3. The parties agree that this settlement agreement has no precedential effect. Specifically, no party or person can use, cite, or rely upon this agreement or any of its term(s), including in a judicial or administrative proceeding. Nothing in this agreement, however, precludes either party from filing an action to enforce this agreement in the event of a breach of this agreement.
4. Any fees, costs, or expenses incurred by either party relating to the above-captioned case are solely the responsibility of the party that incurred them.
5. The terms set forth constitute the sole agreement between the parties in this matter. The parties agree that prior writings, conversations, communications, perceptions, or impressions cannot form the basis for any inference or conclusions that this settlement agreement extends beyond that which is stated within the four corners of this instrument.
6. This settlement agreement is considered a jointly drafted agreement and cannot be construed against any party as the drafter.
7. Respondent acknowledges that he has carefully read and fully understands all of the terms and conditions of this settlement agreement, and that he is freely and voluntarily entering into this settlement agreement. Respondent declares that he is not subject to coercion or duress, and that he is fully aware of the implications of entering into this agreement. Respondent acknowledges that he has been afforded reasonable time and opportunity to review and reflect upon this agreement. Respondent also acknowledges that counsel has represented and advised him throughout this proceeding.

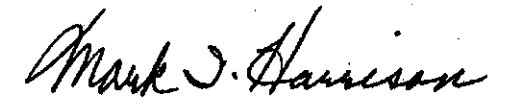
The parties, by their signatures below, agree to the terms and conditions in this settlement agreement.



Jose A. Bracamonte
Respondent
4001 North 3rd Street, Suite 130
Phoenix, Arizona 85012-2084

6/29/20

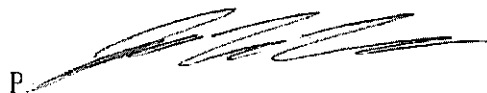
Date




Mark Harrison
Attorney for Respondent
Osborn Maledon, P.A.
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012

June 26, 2020

Date

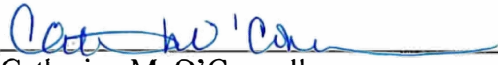
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Respondent's Initials 

Josh Bendor
Attorney for Respondent
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Phoenix, Arizona 85012



Paul A. Rodrigues
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Catherine M. O'Connell
Disciplinary Counsel
United States Citizenship and Immigration Services
U.S. Department of Homeland Security
11411 East Jefferson Avenue
Detroit, Michigan 48214

June 26, 2020

Date

June 29, 2020

Date

June 29, 2020

Date



BRACAMONTE
D2016-0070

CERTIFICATE OF SERVICE

On July 1, 2020, this Decision and Final Order of the Adjudicating Official in Case No. D2016-0070 was served on the following persons in the manner specified:

Mark I. Harrison, Esq.
Joshua D. Bendor, Esq.
Osborn Maledon, P.A.
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012
Method of Delivery: U.S. Mail and Electronic Mail
Email sent to: jbendor@omlaw.com and mharrison@omlaw.com

Paul A. Rodrigues
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U.S. Department of Justice
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041
Method of Delivery: U.S. Mail and Electronic Mail
Email sent to: Paul.Rodrigues@usdoj.gov

Catherine M. O'Connell
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U.S. Department of Homeland Security
11411 East Jefferson Avenue
Detroit, Michigan 48212
Method of Delivery: U.S. Mail and Electronic Mail
Email sent to: Catherine.M.O'Connell@uscis.dhs.gov

Irene C. Feldman, Adjudicating Official
Assistant Chief Immigration Judge