

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS

In the Matter of

AKHTAR HUSSAIN,

Respondent.

Disciplinary Case # D2002-134

2002 FEB 11 P 11 15
BOARD OF
IMMIGRATION APPEALS
DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

**GOVERNMENT'S RESPONSE TO RESPONDENT'S MOTION TO
SET ASIDE IMMEDIATE SUSPENSION ORDER AND
REQUEST FOR REINSTATEMENT**

The Office of the General Counsel ("OGC"), Executive Office for Immigration Review, hereby submits the Government's Response to Respondent's Motion to Set Aside Immediate Suspension Order and Request for Reinstatement.

On or about August 22, 2002, the Supreme Court of Florida suspended Respondent from the practice of law for a period of ninety (90) days, effective October 1, 2002. See Attachment 1 to Petition for Immediate Suspension ("Petition"). On November 12, 2002, OGC filed a Petition for Immediate Suspension and Notice of Intent to Discipline ("NID") with the Board of Immigration Appeals ("Board"), alleging that Respondent's conduct violated Rule 3.102(e)(1) of the Rules of Professional Conduct, in that Respondent, an attorney admitted to practice law in the state of Florida, was subject to a final order of suspension. OGC recommended that the Board

immediately suspend Respondent and impose reciprocal discipline by suspending him for 90 days from practice before the EOIR.¹ On November 20, 2002, OGC filed a Notice of Service, informing the Board that Respondent had been properly served with the Petition and NID. See Notice of Service.

On January 17, 2003, Respondent filed a Response to the Service's motions. On January 30, 2003, the Board immediately suspended Respondent from practice before the Board, the Immigration Courts, and the INS.

On or about February 4, 2003, Respondent filed a Motion to Set Aside [Immediate] Suspension Order and [Request] Reinstatement. In this filing, Respondent states that he was reinstated to practice law in Florida on December 30, 2002, having served his 90-day suspension in that state. Respondent argues that the immediate suspension ordered by the Board should be set aside pursuant to 8 CFR § 3.103(a)(2) and that he should be reinstated to practice before the Board, the Immigration Courts, and the INS.

OGC opposes Respondent's Motion to Set Aside and argues Respondent has failed to show good cause why the Board's immediate suspension order should be set aside. Respondent was disciplined by the Supreme Court of Florida for failing to provide competent representation; for bringing or defending a proceeding, or asserting or controverting an issue without a basis for

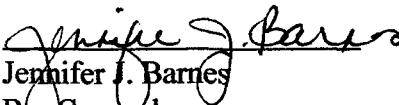
¹ On January 9, 2003, the Immigration and Naturalization Service ("INS") filed a Motion to Broaden the Scope of the Petition and a Motion for Reciprocal Discipline, asking that Respondent be similarly suspended before the INS.

doing so; and for engaging in conduct that is prejudicial to the administration of justice. See NID. For these violations, Respondent should be reciprocally disciplined.

However, in light of Respondent's recent reinstatement by the Florida Bar, and relying upon Respondent's statement that he did not practice law before the Board, the Immigration Courts, or the INS during his period of suspension, OGC recommends that the Board enter an order of suspension for a period of 90 days nunc pro tunc to October 1, 2002, and reinstate Respondent as of December 30, 2002.

WHEREFORE, the undersigned recommends that Respondent be suspended from practice before the Board, the Immigration Courts, and the INS for a period of ninety (90) days, nunc pro tunc to October 1, 2002, with reinstatement granted as of December 30, 2002, pursuant to 8 C.F.R. § 3.107 and based on Respondent's satisfactory compliance with the reinstatement requirements, including his ability to establish that he meets the definition of attorney, as provided at 8 C.F.R. § 1.1(f).

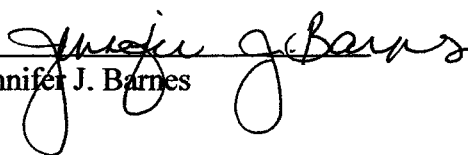
Dated: *February 11, 2003*


Jennifer J. Barnes
Bar Counsel

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IMMIGRATION REVIEW
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Government's Response to Respondent's Motion to Set Aside immediate Suspension Order and Request for Reinstatement has been sent by express mail, postage pre-paid to Akhtar Hussain, 2465 NW 7th Street, Miami, Fl 33125 and hand-delivered to the Immigration and Naturalization Service, Appellate Counsel's Office, 5113 Leesburg Pike, Room 200, Falls Church, VA 22041, this 11th day of February, 2003.


Jennifer J. Barnes