

Falls Church, Virginia 22041

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File: D2004-236

Date: March 1, 2005

In re: PAUL ALAN SCHELLY, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

ORDER:

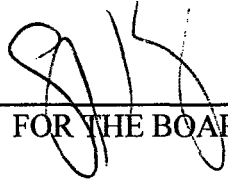
PER CURIAM. On September 13, 2004, the Supreme Court of California suspended the respondent from the practice of law in that state for a period of 2 years, with an actual suspension of 60 days.

Consequently, on December 17, 2004, the Office of General Counsel for the Executive Office for Immigration Review initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On December 21, 2004, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that the respondent be similarly suspended from practice before that agency. Therefore, on January 11, 2005, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. We issued a final order of discipline on February 14, 2005, suspending the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 60 days, effective January 11, 2005, the date of the immediate suspension order.

On February 14, 2005, the respondent submitted a "Reply to Notice of Intent to Discipline". To the extent that this is considered an answer to the Notice of Intent to Discipline, it is untimely filed. The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but failed to do so. *See* 8 C.F.R. § 1003.105(c)(1). In any event, the respondent does not dispute the charges in the Notice of Intent to Discipline, and does not request a hearing on the charges. The respondent asks that he be allowed to "resume practice before all immigration courts, the Board of Immigration Appeals, and before the DHS." He asserts that he has been reinstated as an active attorney in California.

We deny the respondent's request that he be reinstated to practice before the Board, Immigration Courts, and DHS. We will entertain such a request after the suspension period has expired. *See* 8 C.F.R. § 1003.107(a). At such time, 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 California 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). We note that in his "Reply to Notice of Intent to Discipline", the respondent asserts that he has been reinstated to practice in California, but offers no proof of this.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

FOR THE BOARD