

Falls Church, Virginia 22041

File: D2010-064

Date:  **MAY 26 2010**

In re: JAMES TODD BENNETT, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel

ON BEHALF OF DHS: Eileen M. Connolly, Deputy Chief

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for 60 days, nunc pro tunc to January 21, 2010.

On December 22, 2009, the respondent was suspended from the practice of law for one year, stayed, with an actual suspension of 60 days, and probation for two years, by the Supreme Court of California. Consequently, on March 24, 2010, the Disciplinary Counsel for the Executive Office for Immigration Review petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The DHS has filed a "Motion for Reciprocal Discipline", in which it requests that any discipline that restricts the authority of the respondent to practice before the Board or Immigration Courts also apply to the respondent's authority to practice before the DHS.

The respondent filed a timely answer to the allegations contained in the Notice of Intent to Discipline. *See* 8 C.F.R. § 1003.105(c)(1).

The respondent does not dispute the allegations in the Notice of Intent to Discipline, and does not seek a hearing. We therefore find it appropriate to issue a final order on the government's charges. 8 C.F.R. § 1003.106(a)(2010); 73 Fed. Reg. 76914, 76925 (December 18, 2008); EOIR Disciplinary Counsel's "Motion For Summary Adjudication And Non-Opposition to Reinstatement", at ¶ 3 (in summary disciplinary proceedings, Board may issue a final order when the respondent's answer does not make a prima facie showing that there are any material issues of fact in dispute). As there is no material issue of fact in dispute, and as the Disciplinary Counsel's proposed sanction of 60 days is appropriate, in light of the respondent's suspension in California, the Board will honor that proposal.¹

Further, after consideration of the respondent's answer, as well as the government's filings, the Board will deem the suspension to be imposed nunc pro tunc to January 21, 2010, the effective date of the respondent's suspension in California.

¹ The EOIR Disciplinary Counsel's March 26, 2010, "Motion To Withdraw Petition For Immediate Suspension," seeks to withdraw its petition for the respondent's immediate suspension from practice. The DHS has not opposed the motion, and the respondent supports the motion. The request will be granted.

The respondent moves that the Board reinstate him to practice before the Board, the Immigration Courts, and the DHS, and provides evidence that he was reinstated to the State Bar of California on March 22, 2010. The EOIR Disciplinary Counsel does not oppose the request for reinstatement.

ORDER: The EOIR Disciplinary Counsel's "Motion To Withdraw Petition For Immediate Suspension" is granted.

FURTHER ORDER: The EOIR Disciplinary Counsel's "Motion for Summary Adjudication And Non-Opposition to Reinstatement" is granted.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 60 days, nunc pro tunc to January 21, 2010.

FURTHER ORDER: The Board directs that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: The respondent is reinstated to practice before the Board, the Immigration Courts, and the DHS, as of the date of this order.

FURTHER ORDER: The respondent is instructed to notify the Board of any further disciplinary action against him.

A handwritten signature in black ink, appearing to read "Frederick D. Hess", is written over a horizontal line.

FOR THE BOARD