

Falls Church, Virginia 22041

File: D2015-0208

Date: MAY 05 2016

In re: DAVID JOSEPH BERGER, ATTORNEY

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Jennifer J. Barnes
Disciplinary Counsel

ON BEHALF OF DHS: Jeannette V. Dever
Associate Legal Advisor

The respondent will be disbarred from practice before the Board of Immigration Appeals, the Immigration Courts and the Department of Homeland Security ("DHS").

On July 6, 2015, the Supreme Court of Florida immediately suspended the respondent from the practice of law in that state. Consequently, on September 17, 2015, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR Disciplinary Counsel) petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The Disciplinary Counsel for the DHS then asked that the respondent be similarly suspended from practice before that agency. We granted the petition on October 9, 2015.

On January 14, 2016, the Supreme Court of Florida issued a final order disbarring the respondent from the practice of law in that state. The EOIR Disciplinary Counsel then filed a Notice of Intent to Discipline, and the Disciplinary Counsel for the DHS filed a motion for reciprocal discipline.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but has failed to do so. *See* 8 C.F.R. § 1003.105. The respondent's failure to file a response within the time period prescribed in the Notice constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1003.105.

The Notice of Intent to Discipline proposes that the respondent be disbarred from practicing before the Board and the Immigration Courts. The Disciplinary Counsel for DHS asks the Board to extend that discipline to practice before that agency as well. Because the respondent has failed to file an answer, the regulations direct the Board to adopt the proposed sanction contained in the Notice, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. § 1003.105.

Because the proposed sanction is appropriate, in light of the respondent's disbarment in Florida, the Board will grant that sanction. Further, as the respondent is currently under our October 9, 2015, order of suspension, we will deem the respondent's disbarment to have commenced on that date.

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ORDER: The Board hereby disbars the respondent from practice before the Board, the Immigration Courts, and the DHS.

FURTHER ORDER: The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, the Immigration Courts, and the DHS under 8 C.F.R. § 1003.107.

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. 8 C.F.R. § 1003.105(d)(2).



FOR THE BOARD