

ORIGINAL

State Bar Court of California
Hearing Department
Los Angeles

Counsel For The State Bar

Jean Cha
Deputy Trial Counsel
1149 S. Hill Street
Los Angeles, CA 90015
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Bar # 228137

Case Number (s)
06-J-15152,
06-O-13219 - RAP

(for Court's use)

PUBLIC MATTER

FILED

FEB 22 2008 *YOC*

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In Pro Per Respondent

Edward W. Haase, Esq.
401 "B" Street, Ste 1520
San Diego, CA 92101
(619) 507-2546

Bar # 189819

Submitted to: **Settlement Judge**

In the Matter Of:
Edward William Haase

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND
DISPOSITION AND ORDER APPROVING

Bar # 189819

STAYED SUSPENSION; NO ACTUAL SUSPENSION

A Member of the State Bar of California
(Respondent)

PREVIOUS STIPULATION REJECTED

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **SEPTEMBER 16, 1997**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **24** pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."



(Do not write above this line.)

- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- costs added to membership fee for calendar year following effective date of discipline.
 - costs to be paid in equal amounts prior to February 1 for the following membership years: **Costs to be paid in equal amounts prior to February 1 for the following two billing cycles following the effective date of the Supreme Court Order.**
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) **Prior record of discipline** [see standard 1.2(f)]
- (a) State Bar Court case # of prior case
 - (b) Date prior discipline effective
 - (c) Rules of Professional Conduct/ State Bar Act violations:
 - (d) Degree of prior discipline
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below or a separate attachment entitled "Prior Discipline."
- (2) **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **Multiple Acts of Wrongdoing are present.**
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances

None.

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. **Respondent has been cooperative and participated in these proceedings as well as agreed to the stipulated facts and conclusions of law. Respondent was the one who informed his client to file a complaint with the State Bar of California and immediately recognized his failure to perform.**
- (4) **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. **Respondent apologized to his client and advised his client to file a complaint with the State Bar of California and to commence a claim for ineffective assistance of counsel with subsequent counsel.**
- (5) **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) **Good Faith:** Respondent acted in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct. **In the beginning of February 2006, Respondent ultimately closed his law office and moved to work from home due to the wake of the divorce and financial difficulties that resulted. Respondent could no longer afford to keep his law office open.**
- (10) **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) **No mitigating circumstances** are involved.

Additional mitigating circumstances

In the Summer of 2006, Respondent was deeply involved in transitioning out of the practice of law and into full-time service for the United States Army. Respondent was involved in preparation for Operation Desert Wolf regarding the required specialized training of a mobilized task force from the 7th Brigade, 104th Division. On Wednesday, July 26, 2006, Respondent received orders to report to active duty training for 60 days commencing no later than Tuesday, July 31, 2006. Respondent was on Active Duty as of the Wednesday, August 30, 2006 hearing (Failure to appear at this hearing resulted in his discipline before the Immigration Court as related to State Bar case no. 06-J-15152) and was unable to participate because he was on orders. It would have been inappropriate to make or receive a telephonic appearance while on duty and under these circumstances. Respondent acknowledges that he should have informed the Court that he was called to duty by the Department of the Army and he should have requested a continuance. Because he did not make such preparations, while he was on active duty, all other interests were subordinate to that duty. Respondent did not think to do so under the stressful circumstances while serving his country in his capacity as a soldier.

According to Respondent, at the time of the stipulated acts of professional misconduct, Respondent suffered emotional difficulties that were partially responsible for the misconduct in that it altered his ability to focus on his work and personal matters. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse. In the beginning of 2004, Respondent suffered an emotionally distressing time period after the traumatic divorce with his wife of five years. As a result, Respondent alleges he suffered from depression and had trouble eating, sleeping, getting out of bed and concentrating on his law practice. It was during this time that Respondent failed to file a timely appeal on behalf of Jawdeh.

Respondent has been admitted to practice law in California for more than ten years and has no prior discipline which is mitigating when evaluating the appropriate level of suspension. (Standard 1.4(c)(ii); Standard 1.2(e)(i); In re Young (1989) 49 Cal.3d 257, 269.)

D. Discipline:

(1) **Stayed Suspension:**

(a) Respondent must be suspended from the practice of law for a period of **TWO (2) YEARS**.

i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

ii. and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.

iii. and until Respondent does the following:

The above-referenced suspension is stayed.

(2) **Probation:**

Respondent is placed on probation for a period of **TWO (2) YEARS**, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18 California Rules of Court)

E. Additional Conditions of Probation:

- (1) During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (2) Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (3) Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (4) Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (6) Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the State Bar Ethics School, and passage of the test given at the end of that session.
 - No Ethics School recommended. Reason: .
- (8) Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (9) The following conditions are attached hereto and incorporated:
 - Substance Abuse Conditions
 - Law Office Management Conditions
 - Medical Conditions
 - Financial Conditions

F. Other Conditions Negotiated by the Parties:

(1) **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation within one year. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

No MPRE recommended. Reason:

(2) **Other Conditions:**

None.

Attachment language (if any):

**ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

In the Matter of EDWARD WILLIAM HAASE, 189819
Case Numbers 06-J-15152 & 06-O-13219 - RAP

Edward William Haase (Respondent) was admitted to the practice of law in the State of California on September 16, 1997, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct, and has otherwise committed acts of misconduct warranting discipline.

FACTS

The Perez Matter: Case No. 06-J-15152

On September 5, 2006, the United States Department of Justice, Executive Office for Immigration Review in Practitioner Disciplinary Proceedings ordered that Respondent be disciplined upon findings that Respondent committed professional misconduct in that jurisdiction. Thereafter, the decision of that foreign jurisdiction became final. (See Attached Order of the Immigration Judge and Order.)

Based on facts set out in an August 1, 2005 decision of the Immigration Judge of the United States Department of Justice, Executive Office for Immigration Review, United States Immigration Court (the Court), Respondent filed a notice of appearance as counsel for Miralia Perez-Arnado (Perez) in the United States Immigration Court on February 6, 2002. Respondent filed a notice of appearance before the Board of Immigration Appeals (BIA) on March 27, 2003. Respondent appeared at a March 20, 2003 individual merits hearing during which Perez was denied asylum and was ordered removed from the United States. Respondent filed a notice of appeal on April 14, 2003 with the BIA but failed to submit an appellate brief to the BIA. Perez then hired attorney Henry A. Posada, who filed an appeal for Perez based in part on a claim of ineffective assistance of counsel by Respondent. On June 30, 2004, the BIA issued an order of remand to determine whether Perez's ineffective-assistance-of-counsel claim had merit. An individual merits hearing was set for June 17, 2005, at 1:00 p.m. Respondent failed to appear at the hearing despite the fact that he was properly notified of the hearing. Based on a telephone message left by Respondent during the hearing, on June 17, 2005, the immigration judge issued a Notice to Show Cause to Respondent, directing Respondent to explain within 15 days why his absence should not be reported to the disciplinary authorities. The Notice to Show Cause was properly served on Respondent. Respondent did not reply to the Notice to Show Cause. The immigration judge ruled that Respondent rendered ineffective assistance of counsel in Perez's matter and referred the matter to the Office of the General Counsel, Executive Office for Immigration Review (OGC). The OGC initiated disciplinary proceedings against Respondent pursuant to 8 C.F.R. section 1003.102(k).

On January 24, 2006, a pre-hearing conference was held where OGC Bar Counsel and Respondent both appeared. Respondent denied some of the allegations, and the Court requested Bar Counsel to obtain the

Record of Proceeding to assess the ineffective-assistance-of-counsel issue. On February 27, 2006, Bar Counsel submitted the additional evidence requested by the Court. Some of the evidence reflected clearly that Perez did in fact attempt to gain entry into the United States by the fraudulent use of a lawful permanent alien card bearing the name of someone other than Perez in the removal proceedings. Based on this evidence and other facts, the Court found that Respondent did not provide ineffective assistance of counsel to Perez and acted correctly in entering a plea on behalf of his client admitting the charges of removability. The Court further found that Perez made a claim of ineffective assistance of counsel in contravention of the facts of the record for the purpose of persuading the immigration court that she was entitled to some form of relief.

On March 20, 2006, the Court convened a televideo hearing, but Respondent did not appear. Notice had been sent to Respondent at 110 West C Street, Suite 709, San Diego, CA 92101, but according to Federal Express, that address was determined to no longer be an accurate address for Respondent. The Federal Express package was rerouted to 501 West Broadway, San Diego, CA 92101. However both were returned as undeliverable. The Court tried to reach Respondent by telephone and e-mail, but was unable to reach Respondent.

Another hearing by televideo was scheduled for May 10, 2006. Respondent did not appear. By this time the Court was considering entering an order based on Respondent's failure to appear. The Bar Counsel filed an amended charge on May 19, 2006 for failure to appear at scheduled hearings after having received notice of such hearings. However, again, the Court's attempts to serve Respondent with the amended charge were unsuccessful because the Court did not have a good address for Respondent. In July 2006, Respondent contacted Bar Counsel and inquired as to the status of the disciplinary matter and provided a good address and telephone number to Bar Counsel and the clerk of the court. Respondent was updated and served with the additional evidence submitted to the Court on February 27, 2006 and the new charge filed with the Court on May 17, 2006. A telephonic hearing was scheduled for August 30, 2006 with Respondent's consent. However, Respondent failed to respond to telephone calls, and the proceeding was held in absentia.

On September 5, 2006, by order of the immigration judge in the disciplinary proceedings, Respondent was publicly censured for violation of rule 102(l) of the Rules of Professional Conduct and violation of 8 C.F.R. section 1003.102(l) in Disciplinary Case # D2005-215 for failure to appear for scheduled hearings in a timely manner without good cause, before the immigration judge on June 17, 2005 and before the Court on March 20, 2006, May 10, 2006, and August 30, 2006.

In a previous disciplinary matter, on December 22, 2003, Respondent had received an informal admonition by Bar Counsel for the same type of conduct.

CONCLUSION OF LAW

Pursuant to Business and Professions Code section 6049.1, the final order of the United States Department of Justice, Executive Office for Immigration Review in Practitioner Disciplinary Proceedings determining that Respondent committed professional misconduct in that jurisdiction is conclusive evidence that Respondent is culpable of misconduct in California. Respondent's culpability as determined by the United States Department of Justice, Executive Office for Review in Practitioner Disciplinary Proceedings indicates that the following equivalent California statutes or rules have been violated: California Business and Professions Code section 6068(b) for wilfully failing to maintain respect due to courts of justice and

judicial officers and Business and Professions Code section 6103 for wilfully disobeying a court order. Respondent's culpability as determined in the foreign jurisdiction warrants the imposition of discipline in California. The proceedings of the foreign jurisdiction provided fundamental constitutional protection.

FACTS

The Jawdeh Matter: Case No. 06-O-13219

From December 9, 2003 through December 27, 2004, Respondent represented Walid Abou Jawdeh (Jawdeh) in his appeal to the Board of Immigration Appeals (BIA). Respondent filed Jawdeh's appeal on December 18, 2003. Jawdeh paid Respondent \$5,000.00 in fees for Respondent to handle the appeal. Respondent failed to file the appeal brief that was due on December 27, 2004. Respondent failed to advise Jawdeh from and after December 2004 that he had failed to file the appeal brief. On May 12, 2005, the matter was dismissed. On February 10, 2006, Jawdeh received correspondence from the United States Citizenship and Immigration Services advising him that he had been ordered deported from the United States and that the matter had been dismissed as of May 12, 2005. On February 13, 2006, Jawdeh employed attorney Sanjay Sobti (Sobti) and paid Sobti an additional \$5,000.00, and the matter is presently pending in the Ninth Circuit Court of Appeal.

Respondent failed to complete the services for which Jawdeh retained him. Respondent did not earn any portion of the fees paid by Jawdeh.

On February 13, 2006, Sobti wrote a letter to Respondent on behalf of Jawdeh addressed to Respondent at 110 West "C" Street, Suite 709, San Diego, CA 92101. Sobti faxed the letter to Respondent at (619) 696-6606. The letter advised Respondent of his failure to perform and requested an accounting and refund of unearned fees. Respondent received the letter and fax. Respondent did not respond to the letter or fax. Respondent failed to render an accounting to Jawdeh and failed to refund unearned fees.

CONCLUSIONS OF LAW

Respondent intentionally, recklessly and repeatedly failed to perform with competence the services for which he was employed when he failed to file the appeal brief on behalf of Jawdeh and by allowing Jawdeh to be subject to deportation in wilful violation of Rules of Professional Conduct rule 3-110(A)

Respondent wilfully violated Rules of Professional Conduct rule 3-700(A)(2) by failing to file the brief on appeal, by allowing Jawdeh to be subject to deportation, by failing to advise his client from and after December 2004 that he had failed to file the appeal brief, by causing Jawdeh to expend more funds to hire new counsel, and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to his client.

Respondent wilfully violated Rules of Professional Conduct rule 4-100(B)(3) by failing to render appropriate accounts to a client regarding all funds of the client coming into Respondent's possession.

Respondent wilfully violated Rules of Professional Conduct rule 3-700(D)(2) by failing to refund promptly any part of a fee paid in advance that has not been earned although requested to do so by Sobti, Jawdeh's new attorney.

STANDARDS

Standard 2.4 of the Standards for Attorney Sanctions For Professional Misconduct applies where an attorney fails to perform services in an individual matter or matters not demonstrating a pattern of misconduct or fails to communicate with a client and provides that such misconduct shall result in a reproof or suspension depending on the extent of the misconduct and the degree of harm to the client. Here, Respondent harmed Jawdeh by failing to file a timely appellate brief, which resulted in an order of deportation. The conduct is serious but tempered when taking into consideration his special circumstances resulting from his divorce and financial situation. Thus, suspension rather than reproof is appropriate.

Standard 2.6 applies where sections of the Business and Professions Code have been violated, including sections 6068(b) and 6103, and provides a range of discipline from suspension to disbarment depending on the gravity of the offense or the harm to the victim with due regard to the purposes of imposing discipline set forth in Standard 1.3. Suspension falls within this range, and both standards are satisfied with the stayed suspension herein.

In assessing the level of discipline warranted by Respondent's misconduct, the protection of the public, the courts, and the integrity of the legal profession is paramount. (Std. 1.3; *Tarver v. State Bar* (1984) 37 Cal.3d 122, 133; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

COSTS

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of January 4, 2008, the costs in this matter are \$2,296.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

PENDING PROCEEDINGS

The disclosure date referred to, on page one paragraph A.(7), was January 4, 2008.

STATE BAR ETHICS SCHOOL

Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent may receive Minimum Continuing Legal Education (MCLE) credit upon the satisfactory completion of State Bar Ethics School.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF IMMIGRATION JUDGE
5107 LEESBURG PIKE, SUITE 2500
FALLS CHURCH, VA 22041

06/27/05
MAY 11 11 55 AM '05

File: D2005-215

In the Matter of)
)
Edward Haase)
)
Respondent.)

IN DISCIPLINARY PROCEEDINGS

ON BEHALF OF RESPONDENT:
Pro se

ON BEHALF OF THE GOVERNMENT:
Jennifer J. Barnes, Bar Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

Eileen Connolly, Esq.
Appellate Counsel
Appellate Litigation Protection Law
Division, DHS
5113 Leesburg Pike, Suite 200
Falls Church, Virginia 22041

ORDER OF THE IMMIGRATION JUDGE

ORDER: It is hereby ordered that:

- [] 1. The ground(s) set forth in the Notice of Intent to Discipline have not been established by clear, convincing, and unequivocal evidence and are, hereby, dismissed.
- [x] 2. The ground(s) (violation of Rule 102(l) of the Rules of Professional Conduct and violation of 8 CFR §1003.102(l)) set forth in the Notice of Intent to Discipline have been established by clear, convincing, and unequivocal evidence. Any remaining ground(s) set forth in the Notice of Intent to Discipline have not been established by clear, convincing, and unequivocal evidence and are, hereby, dismissed.

The following disciplinary sanction shall be imposed:

- Practitioner shall be permanently expelled from practice before:
 The Board of Immigration Appeals and the Immigration Courts
 The Immigration and Naturalization Service
 Both

- Practitioner shall be suspended from practice before:
 The Board of Immigration Appeals and the Immigration Courts
 The Immigration and Naturalization Service
 Both
Until _____

Practitioner shall be publically censured

Other appropriate disciplinary sanction

Date: 9-5-06



David W. Crosland
Assistant Immigration Judge

APPEAL: WAIVED/RESERVED
APPEAL DUE BY: October 5, 2006
ATTACHED: EOIR 45 and ORDER

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IN PRACTITIONER DISCIPLINARY PROCEEDINGS
BEFORE THE IMMIGRATION COURT

In the Matter of)	
)	
EDWARD HAASE,)	Disciplinary Case # D2005-215
)	
Respondent.)	
)	

ORDER

In a decision dated August 1, 2005, Immigration Judge Robert J. Barrett ruled that Respondent, Attorney Edward Haase, rendered ineffective assistance of counsel in the case of his client, Miralia Perez-Arnado, A78 779 106, in the course of representing her before the immigration court in San Diego, California. As a result, the Office of the General Counsel, Executive Office for Immigration Review ("OGC"), initiated disciplinary proceedings against Respondent, pursuant to 8 C.F.R. § 1003.102(k).

A pre-hearing conference was scheduled for January 24, 2006, at 1:00pm EST, in which Jennifer Barnes, Bar Counsel, OGC, and Mr. Haase were both present. Mr. Haase appeared by televideo from the San Diego Immigration Court. Although Mr. Haase appeared at the scheduled time, he indicated on the record that he was unprepared to go forward at that time and requested that the hearing be adjourned for one (1) hour so that he could retrieve his file from his office. The case was adjourned and the parties reconvened at 2:00pm EST.

At that time, Mr. Haase admitted allegations #1, 2, 3, and 5, and denied allegations # 4 and 6. He stated that although he failed to appear for the hearing held by Judge Barrett on June 17, 2005, a hearing scheduled specifically to determine whether he provided ineffective assistance of counsel to Ms. Perez-Arnado, Mr. Haase denied, in these disciplinary proceedings, that he engaged in ineffective assistance of counsel. The Court requested Bar Counsel to obtain the Record of Proceeding ("ROP") in Ms. Perez-Arnado's immigration case, and then to submit to the Court by March 15, 2006, any additional evidence from the ROP which might be relevant to the ineffective assistance of counsel issue. The next hearing was scheduled for March 20, 2006, at 1:00pm EST.

On February 27, 2006, Bar Counsel submitted the additional evidence requested by the Court. This evidence consisted of copies of: (1) the Record of Sworn Statement (Form I-867) by the alien taken at the port of entry when the alien sought admission. The document reflects clearly that the alien did in fact attempt to gain entry into the United States by the fraudulent use of a lawful permanent alien card bearing the name of someone other than the respondent in the removal proceedings; (2) a Record of Deportable/Inadmissible Alien (Form I-213) reflecting that the alien purchased the lawful permanent alien card in Mexico for \$50.00 for the purpose of procuring entry to the United States through fraud; (3) a Supervisor's Supplemental statement confirming that the alien had purchased a lawful permanent alien card in Mexico for \$50.00 for the purpose of presenting it at the port of entry for admission to the United States and that the alien knew that to do so was fraudulent and illegal, and; (4) a copy of said lawful permanent resident alien card bearing the name of a person who is not the alien. Based on this evidence, which was part of the original record and available to Mr. Haase at the time of the pleading, this

Court finds that Mr. Haase did not provide ineffective assistance of counsel to the alien, but rather, he acted correctly in entering a plea on behalf of his client admitting the charges of removability. The Court further finds that the alien made a claim of ineffective assistance of counsel in contravention of the facts of the record for the purpose of persuading the immigration court that she was entitled to some form of relief.

After noticing the parties of the scheduled hearing, on March 20, 2006, the Court convened a televideo hearing; however, Mr. Haase did not appear. Notice of the hearing had been sent by Federal Express to Mr. Haase's business address at 110 West C Street, Suite 709, San Diego, CA 92101, but that address was determined to no longer be an accurate address for Mr. Haase, according to Federal Express. A new address for Mr. Haase was found at 501 West Broadway, San Diego, CA 92101, and the Federal Express package was rerouted to that address. Another copy of the Notice of Hearing was also sent to the new address. All of these packages were returned as undeliverable. Numerous attempts to contact Mr. Haase by telephone and e-mail were made by the Court clerk and messages were left on his voicemail, including a voicemail message left on the morning of the scheduled hearing on March 20, 2006.

Subsequent to the March 20, 2006 hearing, a hearing by televideo was scheduled for May 10, 2006. Again Mr. Haase did not appear. The Court indicated its unwillingness to enter an order finding that Mr. Haase had provided ineffective assistance of counsel but was prepared to enter an order based on Mr. Haase's failing to appear. Ms. Barnes filed an amended charge on May 19, 2006 in which Mr. Haase was charged with a failure to appear at scheduled hearings after having received notice of such hearings. Again efforts to serve Mr. Haase were stymied by

not having a good address for Mr. Haase to serve the amended charge. Finally in July, 2006. Mr. Haase contacted Ms. Jennifer Barnes asking about the status of the proceeding. He then provided a good address and telephone number to Ms. Barnes and to the clerk of court. Following that, Mr. Haase surfaced in July 2006, and he was served with the additional evidence filed with the Court on February 27, 2006 and with the new charge which had been filed with the Court on May 17, 2006.

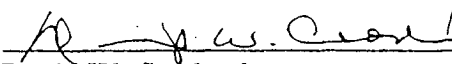
The next hearing was scheduled on August 30 after the court clerk contacted Mr. Haase. Mr. Haase agreed to a telephonic conference, and he selected the date and time of the conference to which Ms. Barnes agreed. Again Mr. Haase failed to respond to telephone calls, and the proceeding was held in absentia.

Therefore, based on these failures to appear, this Court finds that Mr. Haase is in violation of Rule 102(1) of the Rules of Professional Conduct, namely, that he has repeatedly failed to appear for scheduled hearings in a timely manner without good cause, in violation of 8 C.F.R. § 1003.102(1). Mr. Haase failed to appear before Judge Barrett on June 17, 2005, and before this Court on March 20, 2006. It is important to note that Mr. Haase was previously disciplined for violating the same Rule of Professional Conduct on December 22, 2003, by Bar Counsel and received an informal admonition. Although this informal admonition was to remain confidential at the time, it has now become part of the public record since Mr. Haase is now subject to a subsequent Notice of Intent to Discipline based upon unrelated misconduct.

Although the Court has found that Mr. Haase did not render ineffective assistance of counsel to his client based on the evidence reflecting the circumstances of his client's attempted admission to the United States, and although the Court does not find that the failure of Mr. Haase to attend a hearing before Immigration Judge Robert Barrett on this issue constituted an admission of ineffective assistance of counsel to his client, nevertheless, the Court finds that the failure of Mr. Haase to appear at that hearing, other hearings and at this hearing after proper notice is conduct warranting public censure. As a result of Mr. Haase's repeated failures to appear, not only in his clients' cases but in his own disciplinary case, showing his complete disregard for this Court and its authority, it is appropriate that he receive a public censure for his misconduct. It should be noted that after proper notice to Mr. Haase of the hearings before this Court, Mr. Haase failed to appear on March 20, May 10, 2006 and on August 30, 2006.

Therefore, it is ORDERED AND ADJUDGED that Respondent shall receive a public censure. Notice of this discipline shall be posted at all Immigration Courts and at the appropriate offices of the Department of Homeland Security.

Date: 9-5-06


David W. Crosland
Assistant Chief Immigration Judge

CERTIFICATE OF SERVICE


This Order on Case D2005-215 was served on the following persons in the manner so noted on this the 5th day of September 2006:

cc: Jennifer J. Barnes

Bar Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041
(Hand Delivery)

Eileen Connolly
Appellate Counsel
Appellate Litigation Protection Law Division, DHS
5113 Leesburg Pike, Suite 200
Falls Church, VA 22041
(Mail)

Edward W. Haase, Esquire
6653 Convoy Court
San Diego, CA 92111
(Certified Mail)



Mark L. Pasierb
Chief Clerk of the Immigration Court

1 of 100 DOCUMENTS

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*** THIS SECTION IS CURRENT THROUGH THE JANUARY 24, 2007 ISSUE OF ***
*** THE FEDERAL REGISTER ***

TITLE 8 -- ALIENS AND NATIONALITY
CHAPTER V -- EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, DEPARTMENT OF
JUSTICE
SUBCHAPTER A -- GENERAL PROVISIONS
PART 1003 -- EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
SUBPART G -- PROFESSIONAL CONDUCT FOR PRACTITIONERS -- RULES AND
PROCEDURES

Go to the [CFR Archive Directory](#)

8 [CFR 1003.102](#)

§ [1003.102](#) Grounds.

It is deemed to be in the public interest for an adjudicating official or the Board to impose disciplinary sanctions against any practitioner who falls within one or more of the categories enumerated in this section, but these categories do not constitute the exclusive grounds for which disciplinary sanctions may be imposed in the public interest. Nothing in this regulation should be read to denigrate the practitioner's duty to represent zealously his or her client within the bounds of the law. A practitioner who falls within one of the following categories shall be subject to disciplinary sanctions in the public interest if he or she:

(a) Charges or receives, either directly or indirectly:

(1) In the case of an attorney, any fee or compensation for specific services rendered for any person that shall be deemed to be grossly excessive. The factors to be considered in determining whether a fee or compensation is grossly excessive include the following: The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney; the fee customarily charged in the locality for similar legal services; the amount involved and the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client; and the experience, reputation, and ability of the attorney or attorneys performing the services,

(2) In the case of an accredited representative as defined in § 1292.1(a)(4) of this chapter, any fee or compensation for specific services rendered for any person, except that an accredited

representative may be regularly compensated by the organization of which he or she is an accredited representative, or

(3) In the case of a law student or law graduate as defined in § 1292.1(a)(2) of this chapter, any fee or compensation for specific services rendered for any person, except that a law student or law graduate may be regularly compensated by the organization or firm with which he or she is associated as long as he or she is appearing without direct or indirect remuneration from the client he or she represents;

(b) Bribes, attempts to bribe, coerces, or attempts to coerce, by any means whatsoever, any person (including a party to a case or an officer or employee of the Department of Justice) to commit any act or to refrain from performing any act in connection with any case;

(c) Knowingly or with reckless disregard makes a false statement of material fact or law, or willfully misleads, misinforms, threatens, or deceives any person (including a party to a case or an officer or employee of the Department of Justice), concerning any material and relevant matter relating to a case, including knowingly or with reckless disregard offering false evidence. If a practitioner has offered material evidence and comes to know of its falsity, the practitioner shall take appropriate remedial measures;

(d) Solicits professional employment, through in-person or live telephone contact or through the use of runners, from a prospective client with whom the practitioner has no family or prior professional relationship, when a significant motive for the practitioner's doing so is the practitioner's pecuniary gain. If the practitioner has no family or prior professional relationship with the prospective client known to be in need of legal services in a particular matter, the practitioner must include the words "Advertising Material" on the outside of the envelope of any written communication and at the beginning and ending of any recorded communication. Such advertising material or similar solicitation documents may not be distributed by any person in or around the premises of any building in which an Immigration Court is located;

(e) Is subject to a final order of disbarment or suspension, or has resigned with an admission of misconduct.

(1) In the jurisdiction of any state, possession, territory, commonwealth, or the District of Columbia, or in any Federal court in which the practitioner is admitted to practice, or

(2) Before any executive department, board, commission, or other governmental unit;

(f) Knowingly or with reckless disregard makes a false or misleading communication about his or her qualifications or services. A communication is false or misleading if it:

(1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading, or,

(2) Contains an assertion about the practitioner or his or her qualifications or services that cannot be substantiated. A practitioner shall not state or imply that he or she has been recognized or certified as a specialist in immigration and/or nationality law unless such certification is granted by the appropriate state regulatory authority or by an organization that has been approved by the appropriate state regulatory authority to grant such certification;

(g) Engages in contumelious or otherwise obnoxious conduct, with regard to a case in which he or she acts in a representative capacity, which would constitute contempt of court in a judicial proceeding;

(h) Has been found guilty of, or pleaded guilty or nolo contendere to, a serious crime, in any court of the United States, or of any state, possession, territory, commonwealth, or the District of Columbia. A serious crime includes any felony and also includes any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, dishonesty, bribery, extortion, misappropriation, theft, or an attempt, or a conspiracy or solicitation of another, to commit a serious crime. A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section;

(i) Knowingly or with reckless disregard falsely certifies a copy of a document as being a true and complete copy of an original;

(j) Engages in frivolous behavior in a proceeding before an Immigration Court, the Board, or any other administrative appellate body under title II of the Immigration and Nationality Act, provided:

(1) A practitioner engages in frivolous behavior when he or she knows or reasonably should have known that his or her actions lack an arguable basis in law or in fact, or are taken for an improper purpose, such as to harass or to cause unnecessary delay. Actions that, if taken improperly, may be subject to disciplinary sanctions include, but are not limited to, the making of an argument on any factual or legal question, the submission of an application for discretionary relief, the filing of a motion, or the filing of an appeal. The signature of a practitioner on any filing, application, motion, appeal, brief, or other document constitutes certification by the signer that the signer has read the filing, application, motion, appeal, brief, or other document and that, to the best of the signer's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the document is well-grounded in fact and is 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 is not interposed for any improper purpose.

(2) The imposition of disciplinary sanctions for frivolous behavior under this section in no way limits the authority of the Board to dismiss an appeal summarily pursuant to § 1003.1(d)(1-a);

(k) Engages in conduct that constitutes ineffective assistance of counsel, as previously determined in a finding by the Board or an Immigration Judge in an immigration proceeding, and a disciplinary complaint is filed within one year of the finding;

(l) Repeatedly fails to appear for scheduled hearings in a timely manner without good cause; or

(m) Assists any person, other than a practitioner as defined in § 1003.101(b), in the performance of activity that constitutes the unauthorized practice of law.

HISTORY: [65 FR 39513, 39526, June 27, 2000; redesignated and amended at 68 FR 9824, 9830, 9846, Feb. 28, 2003; 68 FR 10349, 10350, Mar. 5, 2003]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 **CFR**, 1949-1953 *Comp.*, p. 1002; section 203 of Pub. L. 105-100, 111 Stat. 2196-200; sections 1506 and 1510 of Pub. L. 106-386, 114 Stat. 1527-29, 1531-32; section 1505 of Pub. L. 106-554, 114 Stat. 2763A-326 to -328.

NOTES: [EFFECTIVE DATE NOTE: *68 FR 9824, 9830, 9846*, Feb. 28, 2003, redesignated Part 3 as Part 1003, and amended this section, effective Feb. 28, 2003; *68 FR 10349, 10350*, Mar. 5, 2003, amended this section, effective Feb. 28, 2003.]

[CROSS REFERENCE: This section was formerly § 3.102.]

NOTES APPLICABLE TO ENTIRE TITLE:

Other regulations issued by the Department of Justice appear in title 4, chapter II, title 21, chapter II, and title 28, chapters I, III, and V.

1408 words

In the Matter of
EDWARD WILLIAM HAASE

Case number(s):
06-J-15152 & 06-O-13219 - RAP

A Member of the State Bar

Law Office Management Conditions

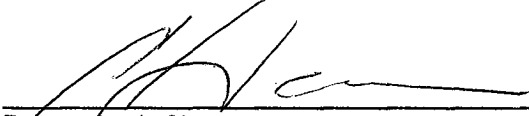
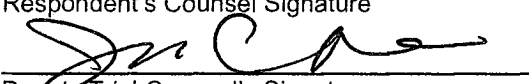
- a. Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. Within -- days/**THREE (3)** months/-- years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **THREE (3)** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

(Do not write above this line.)

In the Matter of EDWARD WILLIAM HAASE, 189819	Case number(s): 06-J-15152 & 06-O-13219 - RAP
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SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

<u>1-28-08</u> Date	 Respondent's Signature	<u>Edward W. Haase</u> Print Name
<u>2-1-08</u> Date	 Deputy Trial Counsel's Signature	<u>Jean Cha</u> Print Name

(Do not write above this line.)

In the Matter Of EDWARD WILLIAM HAASE	Case Number(s): 06-J-15152 & 06-O-13219 - RAP
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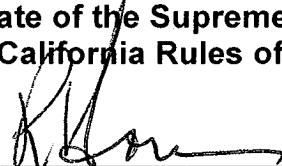
ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

2-15-08
Date



Judge of the State Bar Court
RICHARD A. HONN

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 22, 2008, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION
AND ORDER APPROVING**

in a sealed envelope for collection and mailing on that date as follows:

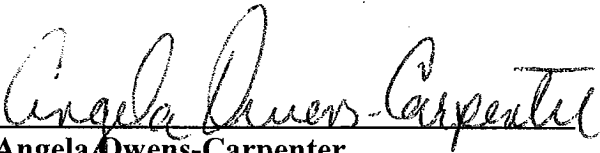
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**EDWARD W HAASE ESQ
LAW OFC EDWARD HAASE
401 B ST STE 1520
SAN DIEGO CA 92101**

- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

JEAN CHA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **February 22, 2008**.



Angela Owens-Carpenter
Case Administrator
State Bar Court