

Falls Church, Virginia 22041

File: D2003-118

Date: NOV - 5 2003

In re: JASON A. MARTINEZ, 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:

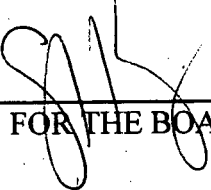
PER CURIAM. The respondent pled guilty on August 18, 2003 to obtaining an employment authorization card for an individual, knowing the card was unlawfully obtained, in violation of 18 U.S.C. § 1546(a) and 18 U.S.C. § 2, in the United States District Court for the Western District of Arkansas. The crime is a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h).

Consequently, on September 8, 2003, the Office of General Counsel for the Executive Office for Immigration Review (EOIR) petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On September 10, 2003, 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 September 25, 2003, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

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(c)(1). 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(d)(1), (2).

The Notice recommends that the respondent be expelled from practicing before the EOIR. Because the respondent has failed to file an answer, the regulations direct us to adopt the recommendation contained in the Notice, unless there are considerations that compel us to digress from that recommendation. 8 C.F.R. § 1003.105(d)(2). We agree that the underlying misconduct of the respondent "involves a conviction for a serious crime involving immigration-related fraud and a crime involving moral turpitude", as argued by the General Counsel in the Notice. Since the recommendation for expulsion is appropriate in light of the respondent's serious crime, we will honor that recommendation. Accordingly, we hereby expel the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our September 25, 2003, order of suspension, we will deem the respondent's expulsion to have commenced on that date. 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. The respondent may seek reinstatement under appropriate circumstances. See
8 C.F.R. § 1003.107(b).



FOR THE BOARD