File: D2002-178 Date: OCT - 9 2003

In re: HANNA Z. HANNA, 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 to one count of aiding and abetting in the filing of an application for alien registration containing a false statement, in violation of 8 U.S.C. § 1306, in the United States District Court for the Eastern District of New York. On March 4, 1998, the court accepted the guilty plea and found the respondent guilty as charged. The misdemeanor crime is a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h).[1] On May 3, 2001, the Supreme Court of the State of New York, Appellate Division, First Judicial Department, suspended the respondent from the practice of law in that state for a period of 3 years.

Consequently, on March 20, 2003, the Office of General Counsel for the Executive Office for Immigration Review ("OGC") petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On April 21, 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 April 30, 2003, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

On May 27, 2003, the respondent filed a "Response to the Notice of Intent to Discipline". The respondent stated that he has filed a lawsuit in the United States District Court for the Southern District of New York, which disputes the May 3, 2001, Supreme Court of the State of New York, Appellate Division, First Judicial Department, suspension order. He argued that this disciplinary case should be held in abeyance until the judicial action is resolved. In an August 1, 2003, order, we declined to hold this case in abeyance. Moreover, we found that the respondent's filings were insufficient as an answer to the Notice of Intent to Discipline. We stated that the respondent addressed none of the allegations in the Notice of Intent to Discipline. *See* 8 C.F.R. § 1003.105(c)(2). Moreover, the respondent did not state whether he wished to have a

[1]Regulations relating to the Executive Office for Immigration Review, found in title 8 of the Code of Federal Regulations, were reorganized on February 28, 2003, due to the Homeland Security Act of 2002. *See* 68 FR 9824 (February 28, 2003). There was no substantive changes made to the regulations. *Id.* at 9825. Until February 28, 2003, 8 C.F.R. § 1003.102(h) was found at 8 C.F.R. § 3.102(h).

hearing on the charges. *See* 8 C.F.R. § 1003.105(c)(3). We also determined that the respondent had failed to give any good reason for why this case should be held in abeyance pending the resolution of his lawsuit in the United States District Court for the Southern District of New York.

In our August 1, 2003, order we gave the respondent 30 days in which to file a proper answer to the Notice of Intent to Discipline. We noted that a failure to file an answer within the time period would constitute an admission of the allegations in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105(d)(1). The respondent's failure to file a timely response 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 suspended from practicing before the Board and the Immigration Courts, for a period of three years. The DHS asks that we extend that discipline to practice before it as well. 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). Since the recommendation is appropriate in light of the respondent's criminal record, and sanctions imposed in New York, we will honor that recommendation. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of three years. As the respondent is currently under our April 30, 2003, order of suspension, we will deem the respondent's suspension 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.

After the three-year suspension period expires, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS. *See* 8 C.F.R.§ 1003.107(a). In order to be reinstated, 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 in New York 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). The respondent may seek earlier reinstatement under appropriate circumstances. *See* 8 C.F.R. § 1003.107(b).

FOR THE BOARD