

Falls Church, Virginia 22041

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File: D2004-015

Date: MAR 19 2004

In re: MAC TRUONG, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

ON BEHALF OF RESPONDENT: Pro se

ORDER:

PER CURIAM. On December 2, 2003, the New York Supreme Court, Appellate Division, First Judicial Department, suspended the respondent from the practice of law, until further order of the court.

Consequently, on February 9, 2004, the Office of General 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. On February 11, 2004, 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.

The respondent argues in his "Response to Petition for Immediate Suspension" that he should not be suspended from practice, because the disciplinary order against him is not final (Respondent's Resp., at pp. 1-2). Yet pertinent regulations provide that an attorney who has been suspended on an interim basis may be immediately suspended from practice before the Board and Immigration Courts. 8 C.F.R. § 1003.103(a). The respondent also argues that the New York court's order suspending him is "null and void" for "lack of personal and subject-matter jurisdiction" (Respondent's Resp., at pp. 1, 2-5). If the New York court's order is rescinded, either by that or a higher court, the Board may set aside the order of immediate suspension. 8 C.F.R. § 1003.103(a). Based on the evidence before the Board, the New York court's order is presently in effect. The respondent also alleges that he is still permitted to practice law in federal court (Respondent's Resp., at pp. 5-6). Yet the regulations provide that an alien may be represented by an attorney in immigration proceedings. 8 C.F.R. § 1292.1. The regulations further provide that an "attorney" is a person who is a member in good standing of a State bar, "and who is not under any order of any court suspending . . . him in the practice of law." 8 C.F.R. § 1001.1(f). The respondent has been suspended from the practice of law by the New York court, as described above, and he therefore does not meet the definition of "attorney" as defined in the regulations. *See Matter of Gadda*, 23 I&N Dec. 645, 648-49 (BIA 2003)

(individual must meet definition of "attorney" in regulation in order to practice in immigration courts).

The petition is granted, and the respondent is hereby suspended, absent a showing of good cause, from the practice of law before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. *See* 8 C.F.R. § 1003.103(a).

Accordingly, the respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies. The respondent shall maintain records to evidence compliance with this order. Moreover, we direct that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.



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FOR THE BOARD